

Notice & Agenda

Swift County Board of Commissioners Truth in Taxation Hearing

Tuesday, December 3, 2019

5:00 PM

LEC Meeting Room – 301 14th St N, Benson, MN

If you need any type of accommodation to participate in this meeting, please contact the County Administrator at 320-314-8399 at least 48 hours prior to the meeting. Times are only estimates and items may be taken out of order.

<u>Time</u>	<u>Reference</u>	<u>Item</u>
5:00 p.m.		Call to Order and Roll Call
5:01 p.m.		Approve Agenda
5:03 p.m.		Consent Agenda
	1-2	(1) Minutes from the November 19, 2019 Regular Meeting
	3-4	(2) Consider approving Health Insurance COBRA Rates Resolution 19-12-42 Effective January 1, 2020
	5-6	(3) Consider approving resolution 19-12-43 for Minnesota Trails Maintenance Grant
	7	(4) Consider approving one daycare grant
5:06 p.m.		Consider Approval of Commissioner warrants and review Auditor warrants reviewed
5:07 p.m.		Commissioner and Board reports
5:26 p.m.		County Administrator Report
5:27 p.m.		Citizens Comments
5:35 p.m.	8-41	Swift County – Benson Hospital Review Operating Lease Agreement
5:45 p.m.	42-53	Catie Lee, Human Services Consider approval of PrimeWest JPB Agreement
5:55 p.m.		Other Business Building Update
6:00 p.m.		Possible Break
6:00 p.m.		Truth-in-Taxation Hearing County Administrator Kelsey Baker
6:30 p.m.		Adjournment

SWIFT COUNTY BOARD MINUTES

November 19, 2019

Chairman Hendrickx called the meeting to order at 9:04 AM. with all members present. Also present: County Administrator Kelsey Baker, County Attorney Danielle Olson, Terri Orr, other county employees and members of the public.

Chairman Hendrickx asked if there were any changes or additions to the agenda. Commissioner P. Peterson had one addition under other business, discussion on elected officials. There were no other changes.

11-19-19-01 Commissioner Rudningen moved and Commissioner P. Peterson seconded to approve the agenda as amended. Motion carried unanimously.

11-19-19-02 Commissioner P. Peterson moved and Commissioner Fox seconded to approve the Consent Agenda items: (1) Minutes from the November 05, 2019 Regular Meeting, (2) Approval of Environmental Services 2020-2021 MPCA Feedlot Delegation Agreement Work Plan, (3) Approval of Countryside Public Health Annual Contract, (4) Approval of Resolution 19-09-36 change of date of the 2019 Swift County Board of Commissioners' Meeting Schedule, (5) Approval of an application for Local Disaster Abatement and Credits, (6) Approval for a Pope/Swift MOU. Motion carried unanimously.

Chairman Hendrickx requested removal of check #10418, Holmgren Tree Spraying Service, \$15,260.00. A brief discussion was held.

11-19-19-03 Commissioner E. Pederson moved and Commissioner Rudningen seconded to approve the Commissioner warrants as follows with the above noted exception: County General Revenue, \$73,581.81; Solid Waste Fund, \$62,932.25; Road and Bridge, \$137,441.26; Revolving Loan Fund, \$202.49; Human Services, \$91.26; County Ditches Fund, \$8,367.69; County Health Insurance, \$120.34; State Fund Agency, \$28.50; which includes the following bills over \$2,000: Ascheman Oil, \$2,421.02; Barry Bouwman, \$12,234.00; Comm of MMB, Treasury Department, \$3,195.50; Counties Providing Technology, \$6,321.00; Dude's Tiling LLC, \$7,370.00; Glacial Plains Cooperative, \$3,125.45; Alan Golden, \$2,000.00; Johnson Feed Inc., \$3,024.50; Kandiyohi County Sheriff's Department, \$8,455.96; Lorenz Manufacturing Company, \$27,800.00; Meeker County Sheriff, \$3,140.99; Minnesota Paving & Materials, \$2,420.40; MN Pollution Control, \$5,528.73; Pflipsen Trucking LLC, \$16,223.58; Tangen, Attorney/Neil, \$2,350.00; Towmaster Inc., \$109,899.00; Treasurer, City of Kerkhoven, \$3,552.25; Van Heuveln General Contracting Inc., \$6,500.00; K Van Heuveln Inc., \$4,723.01; Waste Management Of WI-MN, \$12,188.67; Ziegler Inc., \$4,362.67. Motion carried unanimously.

Board and Committee Reports were given as follows: Commissioner P. Peterson reported on 6W Corrections and Countryside Public Health. Commissioner E. Pederson reported on Healthy Eating Lunch and Learn and Soil Water Conservation District. Chairman Hendrickx reported on 6W Corrections, Woodland Centers and AMC Cannabis work group. Commissioner Fox reported on Hospital meeting, Restorative Practice, Woodland Centers, Pomme de Terre and Well-Being Committee. Commissioner Rudningen reported on Collaborative Insurance meeting and Well-Being Committee.

Administrator Kelsey Baker reported on HRA & RDA Rental Preservation, AMC IT training, Well-Being Committee, TNT meeting, Budget, Courthouse renovation close-out, Kerkhoven to Murdock Trail System and Rural Housing Grant.

Chairman Hendrickx asked for citizen's comments. There were none.

Liz Auch updated the Board on Countryside Public Health.

Human Resource Coordinator Amanda Ness requested approval for the appointment of the Deputy Recorder at Step 5.

11-19-19-04 Commissioner E. Pederson moved and Commissioner Fox seconded to approve the appointment of the Deputy Recorder at Step 5. Motion carried unanimously.

Human Services Director Catie Lee requested review and approval of the On-Call Policy 3.503.

11-19-19-05 Commissioner Rudningen moved and Commissioner P. Peterson seconded to approve the On-Call Policy 3.503. A brief discussion was held. Motion carried unanimously.

Director Lee further presented the monthly Human Service update.

Fiscal Supervisor Gary Jensen presented the Human Service financial summary.

District Manager Andy Albertsen presented the Draft for Pomme de Terre Comprehensive Watershed Management Plan.

The board recessed at 10:17 AM.

The board reconvened at 10:28 AM.

Realty Specialist Blair Mace requested approval for Board signature on the certification of easement from Gary and Carol Nygard and Michael and Kelly Nygard.

11-19-19-06 Commissioner P. Peterson moved and Commissioner Rudningen seconded to approve the Board signature on the certification of easement from Gary and Carol Nygard and Michael and Kelly Nygard. A brief discussion was held. Motion carried unanimously.

Request approval for the Master Agreement between the County of Swift and Law Enforcement Labor Services, Inc. Local #10.

11-19-19-07 Commissioner Rudningen moved and Commissioner Fox seconded to approve the Master Agreement between the County of Swift and Law Enforcement Labor Services, Inc. Local #10. A brief discussion was held. Motion carried unanimously.

Commissioner P. Peterson requested that elected officials give quarterly reports. No action taken at this time. Discussion was held and this will start in 2020.

Fairfield Township discussion on getting fire numbers for all Swift County Residents.

11-19-19-7 Commissioner Rudningen moved and Commissioner Fox seconded to take the Appleton Fire bill based on the contract with the Morris Fire Department away from Randy Thielke. The Board asked the County Administrator on behalf of Swift County to contact the City of Appleton to work out the details. A lengthy discussion was held. Motion carried unanimously.

Patrick Moore volunteer from Yellowstone Trail Alliance of Western Minnesota requested funds and to become a member of the Yellowstone Trail Alliance of Western Minnesota.

11-19-19-08 Commissioner P. Peterson moved and Commissioner Rudningen seconded to approve a membership in the amount of \$250.00 to go toward the Yellowstone Trail Alliance of Western Minnesota. A brief discussion was held. Motion carried unanimously.

11-19-19-09 Commissioner P. Peterson moved and Commissioner Rudningen seconded to adjourn. Motion carried unanimously.

Meeting adjourned at 11:40 AM.

WITNESSED:

Gary Hendrickx, Chair

ATTEST:

Kelsey Baker, County Administrator



Request for Board Action

BOARD MEETING DATE:
December 3, 2019

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: Administration	REQUESTOR: Amanda Ness	REQUESTOR PHONE: 320-314-8321
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approving Health Insurance COBRA Rates Effective January 1, 2020	
AGENDA YOU ARE REQUESTING TIME ON: Consent Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? No
IS THIS MANDATED? No	EXPLANATION OF MANDATE: n/a
BACKGROUND/JUSTIFICATION: As a self-funded health insurance plan, the County is required to set COBRA health insurance premium rates. The attached resolution sets the COBRA health insurance premium rates based on the plan's utilization cost, the fixed costs of the plan, and up to a 2% administration fee in order to meet the requirement of the US Department of Labor. Staff worked with our insurance advisors (Marsh & McLennan) in setting these COBRA rates.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED? Previous rates were set on October 2, 2018.	

Budget Information

FUNDING: n/a

Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Was not submitted for review	RECOMMENDATIONS: Approve
COMMENTS: n/a	COMMENTS: None

RESOLUTION 19-12-42

**APPROVING HEALTH INSURANCE COBRA RATES
EFFECTIVE JANUARY 1, 2020**

Motion by Commissioner _____ Seconded by Commissioner _____

WHEREAS, as a self-funded health insurance plan, the County is required to set a COBRA health insurance premium that is based on the plan’s utilization, the fixed costs of the plan charged to all plan participants, and up to a 2% administration fee, and

WHEREAS, staff has worked with our insurance advisors to developed a COBRA rate that meets the requirements of the US Department of Labor.

BE IT RESOLVED, by the Swift County Board of Commissioners that the monthly COBRA premiums for the County’s group health insurance effective January 1, 2020, are approved:

<u>Health Insurance Plan</u>	<u>Individual</u>	<u>Family</u>
Mid Plan	\$721.55	\$1,954.97
High Plan	\$653.71	\$1,752.79

Adopted on a _____ vote by the Swift County Board of County Commissioners the 3rd day of December 2019.

Swift County Board of Commissioners

Gary Hendrickx, Chairman

ATTEST:

Kelsey Baker, County Administrator

Fox	___	Hendrickx	___	E. Pederson	___
P. Peterson	___	Rudningen	___		



Request for Board Action

BOARD MEETING DATE:
December 3rd, 2019

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: Swift County Parks	REQUESTOR: Michael Johnson	REQUESTOR PHONE: 320-843-5341
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approving resolution for Minnesota Trails Maintenance Grant	
AGENDA YOU ARE REQUESTING TIME ON: Consent Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? Resolution
IS THIS MANDATED? Yes	EXPLANATION OF MANDATE: Required for MN Grant in Aid Maintenance Grant
BACKGROUND/JUSTIFICATION:	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED? No action	Click here to enter text.

Budget Information

FUNDING: N/A

Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Click here to enter text.	RECOMMENDATIONS: Click here to enter text.
COMMENTS: Click here to enter text.	COMMENTS: Click here to enter text.

Board Action

Motions ___ J Fox ___ G Hendrickx ___ E. Pederson ___ P Peterson ___ E Rudningen	
Action	Vote

RESOLUTION 19-12-43

At a regular meeting of the Swift Board of Commissioners, duly held on the 3rd day of December, 2019 the following resolution was

offered by _____

and seconded by _____

WHEREAS, the State of Minnesota has made available through the **Minnesota Trails Assistance Program**, for the purpose of constructing and maintaining an Off-Highway Vehicle Park, and

WHEREAS, the County of Swift desires to make available to its citizens and visitors, such an area for the aforementioned purposes, in harmony and keeping with its recreational plan, and

WHEREAS, the County of Swift is willing to operate, maintain and safeguard the facility as set forth in the Application, attached hereto, and made a part thereof,

NOW THEREFORE, BE IT RESOLVED, that the Swift County Chairperson of the Board and the Swift County Administrator execute the aforesaid Application and make this resolution effective until June 30, 2021.

Gary Hendricks, Swift County Board Chairperson

STATE OF MINNESOTA)
COUNTY OF SWIFT)

I do hereby certify that at a regular meeting of the Board of County Commissioners, Swift County, Minnesota, on the 3rd day of December, 2019, at which a majority of the members of the said Board were present, the foregoing resolution was adopted.

Kelsey Baker, Swift County Administrator

Fox ___ Hendricks ___ E. Pederson ___
P. Peterson ___ Rudningen ___



Request for Board Action

BOARD MEETING DATE:
December 3, 2019

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: Human Services	REQUESTOR: Catie Lee	REQUESTOR PHONE: 320-843-6301
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approval of 1 daycare grant					
AGENDA YOU ARE REQUESTING TIME ON: Regular board			ARE YOU SEEKING APPROVAL OF A CONTRACT? No		
IS THIS MANDATED? No			EXPLANATION OF MANDATE: County Board action needs to be taken to review and approve the grant request		
BACKGROUND/JUSTIFICATION:					
Name	Address	#children in Daycare	Amount requested	Purpose	Committee Approval Date
Kathy Dokkebakken	310 9 th St. N. Kerkhoven	12	\$1800	Dishwasher Range Microwave Installation of new and removal of old	11/18/19
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED? Click here to enter text.					

Budget Information

FUNDING: Budget approval for these loans has been granted by the board.

Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Click here to enter text.	RECOMMENDATIONS:
COMMENTS: n/a	COMMENTS: Click here to enter text.

OPERATING LEASE AGREEMENT
BY AND AMONG
SWIFT COUNTY-BENSON HOSPITAL DISTRICT,
CENTRACARE HEALTH SYSTEM,
AND
CARRIS HEALTH-BENSON, LLC

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OPERATING LEASE AGREEMENT

THIS OPERATING LEASE AGREEMENT (the “**Agreement**”), has been entered into effective as of [month-end date], 2019, by and among Swift County-Benson Hospital District, a Minnesota hospital district (the “**District**”), organized by Swift County, Minnesota (the “**County**”) and the City of Benson, Minnesota (the “**City**”) under Minnesota Laws 1992, Chapter 534, CentraCare Health System, a Minnesota nonprofit corporation (“**CentraCare**”) and Carris Health-Benson, LLC, a Minnesota nonprofit limited liability company (“**CCH Subsidiary**”).

PREAMBLE

WHEREAS, the District owns a 21-bed acute care hospital located at 1815 Wisconsin Avenue, Benson, Minnesota, known as Swift County-Benson Hospital (the “**Hospital**”), and provides inpatient and certain related healthcare services, including a medical clinic, an ambulance service and an outpatient surgical center. The District is the sole member of Residential Options, Inc. (“**ROI**”), which owns and operates a senior living facility. The foregoing facilities, collectively, with the Hospital, are referred to herein as the “**Benson Facilities**”; and

WHEREAS, the District has issued 2013 and 2014 revenue bonds (the “**District Bonds**”). The proceeds of the 2013 revenue bonds were used to finance improvements at the Hospital and medical clinic. The proceeds of the 2014 revenue bonds were used to refund 2007 revenue bonds, which were used to construct and equip a new surgery center and front entrance and waiting room area; and

WHEREAS, CentraCare operates a healthcare system providing services in multiple locations throughout Central and Western Minnesota, including eight acute care hospitals;

WHEREAS, CentraCare currently furnishes staffing, planning, budgeting and other management services to the Hospital under a Management Services Agreement;

WHEREAS, Carris Health (“**Carris**”), is a limited liability company, the sole member of which is CentraCare. Carris Health is the sole member of CCH Subsidiary;

WHEREAS, CentraCare and Carris established CCH Subsidiary to, among other things, acquire certain operating assets, employees and operations of the Benson Facilities; and

WHEREAS, CentraCare and the Board of Directors of the District mutually have determined to pursue an affiliation of CentraCare and the Hospital in order to best position the Hospital to provide high-quality, affordable care to patients residing in the Hospital’s service area.

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

ARTICLE I DEFINITIONS

The following words, terms or phrases, when used in this Agreement, shall have the following meanings, unless the context clearly indicates a different meaning:

1.1 “Assigned Contracts” means the agreements entered into in connection with Benson Operations before the Possession Date, including, but not limited to, those real property leases listed on the attached Exhibit 1.1(a) and those other contracts listed on the attached Exhibit 1.1(b).

1.2 “Assumed Liabilities” means any and all liabilities, indebtedness, commitments, or obligations of any nature, of the District, the Benson Facilities relating to, or arising out of, Benson Operations, whether known or unknown, fixed or contingent, recorded or unrecorded, currently existing or hereafter arising, other than the Excluded Liabilities, including, but not limited to the following:

(a) All payment obligations, other obligations and liabilities arising under the Assigned Contracts listed on the attached Exhibits 1.1(a) and 1.1(b);

(b) Any materialmen, mechanics or other liens against the Leased Assets or the Transferred Assets;

(c) All accounts payable, trade payables and similar liabilities arising out of Benson Operations;

(d) All payment obligations, other obligations and other liabilities arising in connection with the license agreements listed on the attached Exhibit 1.2(d)

(e) All liabilities and obligations relating to or arising under the terms of any Health Plan Contract;

(f) All claims or potential claims for medical malpractice or general liability relating to acts or omissions asserted to have occurred in connection with Benson Operations;

(g) All federal, state or local tax liabilities or obligations arising from Benson Operations including, without limitation, any withholding tax, franchise tax, tax recapture, sales and/or use tax, FICA, FUTA, and workers’ compensation taxes;

(h) All employee liabilities arising from Benson Operations, including, but not limited to, liabilities associated with any employee benefit plan maintained for persons employed at the Benson Facilities, whether arising before or after the Possession Date, or for any and all claims by or on behalf of such employees relating to periods prior to the Possession Date including, without limitation, liability for any compensation-related payments, deferred compensation, incentive compensation, fringe benefit, tuition reimbursement, severance, termination pay, change in control or retention payments, bonuses or any other employee benefit plan of whatever kind or nature or any employee

health and welfare benefit plans, liability for any EEOC claim, ADA claim, FMLA claim, wage and hour claim, unemployment compensation claim, or workers' compensation claim, and any liabilities or obligations to former employees under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended; any obligation or liability accruing, arising out of, or relating to any collective bargaining agreements relating to employees at the Benson Facilities;

(i) All civil or criminal obligations or liabilities arising in connection with Benson Operations accruing, arising out of, or relating to any federal, state or local investigations of, or claims or actions against, the District, the Benson Facilities or any of officer, employee, medical staff, or other agent thereof;

(j) All liabilities or obligations arising as a result of any breach by the District, or the Benson Facilities of any contract or commitment in connection with Benson Operations;

(k) All liabilities arising from, or relating to, any violation or claim of a violation by Benson Facilities of any obligation or claim of an obligation against any Benson Facility to investigate, assess, mitigate, conduct a removal action or remediate under any law or regulation relating to the protection of the environmental including liabilities arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986;

(l) Any fines, penalties or other payments, or repayments, required to be made to any governmental entity (including, but not limited to, return of overpayments made by Medicare) under the federal Anti-Kickback Law, federal Physician Self-Referral Law, federal False Claims Act, federal Civil Monetary Penalties Law and other similar federal and state laws in connection with the operation and use of Hospital prior to the Possession Date;

(m) All liabilities incurred by the District for acts or omissions attributable to its elected officials, employees or agents pertaining to the ownership or operation of the Benson Facilities, or to any of the officers, employees or agents of Benson Facilities, in either case on or before the Possession Date, together with the benefit of (i) all of the defenses, privileges and immunities afforded by applicable law (including, without limitation, Minnesota Statutes, Chapter 466) and (ii) insurance with respect to such liabilities maintained by the District; and

(n) The District's loans with the Sonsteng Foundation, Bremer Financial Corporation, the Rural Electric Economic Development, Inc. and the County.

1.3 "Benson Facilities" has the meaning set forth in the Preamble hereto.

1.4 "Benson Operations" means all healthcare, administrative and related or ancillary activities conducted in connection with the operation of the Benson Facilities either prior to the Possession Date or during the Term.

- 1.5** “Bond Documents” means *[to be completed]*.
- 1.6** “Bond Reserves” means all funds (including, but not limited to, debt service reserve funds) held or otherwise required to be maintained under the Bond Documents.
- 1.7** “Breach Notice” has the meaning set forth in Section 11.5(a) below.
- 1.8** “CCH Subsidiary” has the meaning set forth in the introductory paragraph of this Agreement.
- 1.9** “CCH Subsidiary Operating Agreement” has the meaning set forth in Section 5.1 below.
- 1.10** “CCH Subsidiary Operating Committee” means the Board of Governors of CCH Subsidiary as established under the terms of the CCH Subsidiary Operating Agreement. *[Document needed]*
- 1.11** “Code” means the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future United States Internal Revenue Law.
- 1.12** “District” has the meaning set forth in the introductory paragraph of this Agreement.
- 1.13** “District Bonds” has the meaning set forth in the Preamble hereto.
- 1.14** “Enforcement Action” has the meaning set forth in Section 11.5(a) below.
- 1.15** “Excluded Liabilities” means all of the obligations of the District with respect to
- (a) The District Bonds, provided, however, that the Leased Assets or Transferred Assets shall remain subject to all liens, security interests and other encumbrances, if any, created with respect thereto under the terms of the District Bonds or the Bond Documents. Although the District shall continue to be solely responsible for the Excluded Liabilities, CCH Subsidiary and CentraCare shall be responsible for funding the payment of principal and interest on the District Bonds as and when due through its payment of Rent as provided in Section 3.1(a); and
- (b) Any liabilities of the Hospital Foundation.
- 1.16** “Guarantee Agreement” has the meaning set forth in Section 3.1(b) below.
- 1.17** “Health Plan Contracts” means all health plan participation, provider, and/or reimbursement agreements of the Benson Facilities listed on attached Exhibit 1.16.
- 1.18** “Hospital” has the meaning set forth in the Preamble hereto.
- 1.19** “Hospital Accounts Receivable” means all amounts owed to the District, the Hospital or any other Benson Facility in connection with Benson Operations as of the Possession

Date whether actually billed as of the Possession Date or whether work in progress remaining to be billed.

1.20 “Hospital Assets” collectively means the Leased Assets, the Transferred Assets and all other property acquired by CCH Subsidiary or any of its affiliates or subsidiaries after the Possession Date relating to Benson Operations.

1.21 “Hospital Funds” means all of the District’s right, title and interest in or to all cash, bank accounts, savings and loan accounts, certificates of deposit, money market accounts, treasury bills, investments (whether debt or equity, liquid or illiquid), reserves, or other cash items held in the name of, or on behalf of, the District as of the Possession Date in connection with Benson Operations, including the Investment Fund but excluding any Bond Reserves.

1.22 “Hospital Medical Staff” means all medical, dental and mid-level health professionals holding appointment to the Medical Staff of the Hospital as of the Possession Date.

1.23 “Hospital Operating Expenses” means all costs and expenses, of any nature, associated the operation of the Benson Facilities, including, but not limited to, all Assumed Liabilities and all costs of maintenance and repair of Leased Assets, Transferred Assets, Improved Transferred Assets and New Property, utilities, equipment rental, professional fees, salaries, wages, employee benefits, permit fees, license fees, taxes, assessments and governmental charges and penalties that may be lawfully assessed or levied against or otherwise attributable to the business operations of the Benson Facilities during the Term.

1.24 “Improvements to Leased Assets” has the meaning set forth in Section 7.3 below.

1.25 “Improved Transferred Assets” has the meaning set forth in Section 4.2 below.

1.26 “Initial Term” has the meaning set forth in Section 2.2 below.

1.27 “Inventories of Supplies” means all items of consumable personal property located at, or used exclusively in connection with the Benson Operations that are owned by the District or any Benson Facility as of the Possession Date.

1.28 “Investment Fund” means the investments in securities and cash reflected under the heading “Noncurrent Cash and Investments” on the Hospital’s balance sheet, excluding any Bond Reserves.

1.29 “IRS” means the Internal Revenue Service.

1.30 “Leased Assets” means the District’s interest in all of the following, subject to the rights of third parties pursuant to any Assigned Contracts: the real property comprising of the Benson Facilities (including the senior living facility owned by ROI), which is more specifically described on the attached Exhibit 1.30(a), including all buildings and surrounding parking areas, improvements, fixtures, furnishings or other types of personal property incorporated into or affixed to any part of such buildings located as of the Possession Date, and any equipment treated as a capital asset by the District on its financial statements, whether or not financed or re-financed with the proceeds of the District Bonds, described on the attached Exhibit 1.30(b).

Further, for purposes of this Agreement, the term “Leased Assets” shall include all additions, alterations, improvements, changes and deletions in and to all or any part of the Leased Assets either before or after the Possession Date.

1.31 “Material Adverse Change” means any event, occurrence, fact, condition or change that is individually, or in the aggregate, materially adverse to the business, results of operations condition (financial or otherwise) or assets of the Benson Facilities, other than any claims or payments under Section 5.11(c)(1); provided, that such event, occurrence, fact, condition or change exceeds [\$200,000] individually or in the aggregate.

1.32 “New Property” has the meaning set forth in Section 4.3 below.

1.33 “Possession Date” means the date on which possession of the Leased Assets and ownership of the Transferred Assets are conveyed to CCH Subsidiary subject to the terms and conditions set forth in Article XII hereof, which the parties anticipate will occur as of [October 31, 2020].

1.34 “Possession Date Working Capital” means [TBD, insert a formula referencing items on the District’s financial statement].

1.35 “Prepayment Election” has the meaning set forth in Section 3.1(c) below.

1.36 “Renewal Term” has the meaning set forth in Section 2.2 below.

1.37 “Rent” the meaning set forth in Section 3.1(a) below.

1.38 “Section 501(c)(3) Organization” has the meaning set forth in Section 5.3(a) below.

1.39 “Term” has the meaning set forth in Section 2.2 below.

1.40 “Transferred Assets” means the following assets:

(a) All right, title, control and interest (whether held in the name of the District, the Hospital or any other Benson Facility) in the tangible and intangible personal property used in Benson Operations, including machinery, furniture and equipment, movable medical and office equipment, but specifically excluding any personal property incorporated into or affixed to the real property that is included in the Leased Assets;

(b) All interests of the District or the Benson Facilities, third party entities, joint ventures or partnerships relating to Benson Operations, including without limitation, the Hospital’s ambulance service, as well as its membership interests in Central Minnesota Diagnostics, Inc., Benson Medical Services, LLC and SISU Medical Solutions, LLC, but excluding the District’s membership interest in ROI, which the District will retain;

(c) The Hospital Accounts Receivable;

(d) The gifts, bequests, donations or other endowments specifically given for the benefit of or restricted to the use of Hospital or any part thereof, provided, however, that CCH Subsidiary will observe all conditions applicable to such gifts;

(e) All rights to receive goods or services, to use and occupy personal and leased real property or to receive payment for goods or services rendered, or other benefits arising under the Assigned Contracts;

(f) All Inventories of Supplies;

(g) All trade secrets and other confidential information concerning the operation or use of Hospital not in the public domain and in existence on the Possession Date;

(h) All books and records and other documents and information relating to the Hospital Assets and/or used in the operation of Hospital, including, without limitation, all patient medical records, hospital charts, patient lists, literature, inventory records, purchase orders and invoices, sales orders and sales order log books, patient information, patient and payor correspondence, employee payroll and personnel records, and educational and promotional literature of every kind and nature, provided, however, all existing records shall be preserved pursuant to the District's retention schedule;

(i) Hospital's current telephone listings and the right to use the telephone numbers currently being used at Hospital;

(j) All Hospital Funds;

(k) Any prepaid expenses arising from the operation or use of Hospital in existence on the Possession Date;

(l) The right to any and all recovery from all collection cases in progress on the Possession Date for goods furnished or services rendered by Hospital;

(m) All rights under the license agreements used in the Benson Operations;
and

(n) All Health Plan Contracts.

1.41 "Working Capital Reconciliation" has the meaning set forth in Section 11.4(a)(i) below.

ARTICLE II **LEASE OF ASSETS**

2.1 Lease of Leased Assets. In consideration of the agreements set forth in this Agreement, effective as of the Possession Date, the District shall lease and demise the Leased Assets to CCH Subsidiary on the terms and conditions set forth in this Agreement, and CCH

Subsidiary shall lease the Leased Assets from the District on such terms and conditions, to have and to hold for the Term, as defined in Section 2.2 below.

2.2 Lease Term and Renewal. Subject to the further provisions of this Agreement, the initial term (the “**Initial Term**”) of the lease shall commence on the Possession Date and expire at 11:59 p.m. on the day immediately prior to the thirtieth (30th) anniversary of the Possession Date. If CCH Subsidiary is then in material compliance with all of the terms and conditions of this Agreement for which the District has not waived any noncompliance, then this Agreement shall automatically renew upon the same terms and conditions, for one additional term beginning on the 30th anniversary of the Possession Date and continuing, unless earlier terminated, until 11:59 p.m. on the day immediately prior to the sixtieth (60th) anniversary of the Possession Date (the “**Renewal Term**”). The Initial Term and the Renewal Term, if any, are collectively referred to in this Agreement as the “**Term**.” If CCH Subsidiary does not desire to renew this Agreement after the Initial Term, CCH Subsidiary shall provide written notice to the District of such non-renewal on or before the twenty-eighth (28th) anniversary of the Possession Date, and this Agreement shall be terminated under Section 10.3.

2.3 Transfer of Transferred Assets. In consideration of the covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the District shall, or shall cause, all of the Transferred Assets to be transferred, assigned and conveyed to CCH Subsidiary as of the Possession Date, subject to the terms and conditions set forth in this Agreement. To the extent accounts receivable from governmental payors are not assignable to CCH Subsidiary under law or otherwise, such accounts receivable will be collected by CCH Subsidiary acting as the agent for the Hospital or the respective Benson Facility pursuant to the terms of a Billing Agent Agreement in substantially the form attached hereto as Exhibit 2.3.

2.4 CCH Subsidiary Profits. All rents, profits, gains, and other income derived from the Leased Assets and the Transferred Assets and the proceeds of accounts receivable and other assets generated in connection with Benson Operations during the Term shall be the sole property of CCH Subsidiary and will inure to and for the exclusive benefit of CCH Subsidiary. The profits realized by CCH Subsidiary, whether before, during or after the Term, shall not be subject to return to District upon termination of this Agreement or any other provision of this Agreement; provided, however, that this sentence is not intended to limit CCH Subsidiary’s liability for its specific obligations to make payments to the District, or for any event of default by it, under this Agreement.

ARTICLE III **CONSIDERATION**

In consideration of the District’s lease of the Leased Assets to CCH Subsidiary, the transfer of the Transferred Assets and income earned on such Transferred Assets to CCH Subsidiary, and all other promises and responsibilities of the District set forth in this Agreement, CCH Subsidiary agrees as follows:

3.1 Rent.

(a) CCH Subsidiary shall pay rent to the District in the amounts as set forth on attached Exhibit 3.1(a), which amounts are equal to the principal and interest payments on the District Bonds (“**Rent**”). Rent shall be due and payable on the dates set forth in Exhibit 3.1(a) and the obligation of CCH Subsidiary to make payments of Rent shall be unconditional. The District shall apply all payments of Rent to make principal and interest payments on the District Bonds as and when due.

(b) All payments of Rent shall be made by wire transfer or other mutually agreed upon means of immediately available funds to the District and if sent by wire using the wiring instructions delivered by the District to CCH Subsidiary; provided, however, that the District may require that payments of Rent be remitted by CCH Subsidiary directly to the respective bond trustees or other paying agents for the District Bonds to make the payment of principal and interest then due on the District Bonds. Pursuant to a Guarantee Agreement attached as Exhibit 3.1(b) (“**Guarantee Agreement**”), CentraCare shall guarantee CCH Subsidiary’s obligation to make all payments of Rent.

(c) At any time during the Term, CCH Subsidiary may elect to pay an amount to the District equal to the amount (including principal, accrued interest and prepayment premiums or penalties) necessary to allow the District to pay off the District Bonds to the extent allowed under the terms of the District Bonds (a “**Prepayment Election**”). CCH Subsidiary shall provide the District with not less than ninety (90) days’ prior written notice of a Prepayment Election. Upon its remittance of cash equal to the entire amount necessary to prepay the District Bonds (which, at the election of the District may be remitted directly to the respective bond trustees or other paying agents for the District Bonds), (i) the District will apply such cash to the repayment of the District Bonds and take such steps as necessary to release Leased Assets and Transferred Assets from any lien, security interest or other encumbrance thereon securing the District’s obligations under the District Bonds, (ii) the obligation of CCH Subsidiary to make further payments of Base Rent shall terminate and (iii) any amounts remaining in the Bond Reserves shall be remitted by the District to CCH Subsidiary.

(d) The District acknowledges that the amounts held in the debt reserve account are dedicated to the Existing Bonds, and in the event that there is a reduction in the amount of the required debt reserve or CCH Subsidiary elects to pay off the District Bonds, then the amounts held in the debt reserve account shall be used to pay off the District Bonds.

(e) Payment of Operating Expenses and Taxes. During the Term, CCH Subsidiary shall pay, or otherwise cause to be paid, satisfied or discharged all Hospital Operating Expenses as and when due; provided, however, that with respect to taxes, assessments or governmental charges and penalties that may lawfully be paid in installments, CCH Subsidiary shall be obligated to pay only such installments as are due and payable during the Term. CCH Subsidiary may, at its expense and in its own name and behalf (or, to the extent lawful and pertaining to Assumed Liabilities, in the name and behalf of the District), contest in good faith any such Hospital Operating Expenses provided that such proceedings have the effect of preventing the forfeiture of the Leased Assets. The District will cooperate reasonably with CCH

Subsidiary, at CCH Subsidiary's expense, in any such contest. Any settlement by CCH Subsidiary of any claim that could potentially involve Assumed Liabilities shall require sixty (60) days prior written notice to the District.

ARTICLE IV
OPERATION, MAINTENANCE, EXPENSES, TAXES, INDEMNIFICATION AND
INSURANCE

4.1 Operation and Maintenance of Benson Facilities. CCH Subsidiary shall have sole responsibility and expense for the management, operation, administration and maintenance of the Leased Assets, and shall (i) maintain, preserve and keep the Leased Assets in good condition, repair and working order and free and clear of all liens, security interests or other encumbrances other than those imposed under the terms of the District Bonds, (ii) purchase, repair or replace any and all equipment necessary to meet then-current state licensure and Medicare certification requirements of the Hospital and the other Benson Facilities. The District acknowledges and agrees that CCH Subsidiary may, at its own expense, make or cause to be made any and all additions, alterations, changes and deletions in and to all or any part of the Leased Assets as CCH Subsidiary, in its sole discretion, deems necessary or appropriate, including without limitation additional fixed or movable equipment or other personal property, except as may otherwise be provided in this Agreement or the Bond Documents. If CCH Subsidiary is required to repair any of the Leased Assets, and the repair is attributable to conditions for which the District is the holder of a manufacturer's, supplier's, or contractor's warranty or guaranty, the District shall, upon written notice from CCH Subsidiary, undertake all reasonable steps, including legal action, to exercise the District's rights under and recover upon such warranty or guaranty; provided, however, that all expenses and costs, including legal fees, incurred in connection with the exercise of those rights shall be borne by CCH Subsidiary. In the event of recovery by the District, the District agrees to promptly remit all proceeds from the recovery, whether in cash or in kind, to CCH Subsidiary.

4.2 New Machinery and Equipment. Subject to the terms of the Bond Documents or associated covenants under the District Bonds, during the Term, in its discretion and at its cost, CCH Subsidiary may (a) install replacement or additional items of fixed or movable machinery, equipment or other types of personal property ("**New Property**"), in or at the Hospital or any other Benson Facility included in the Leased Assets, and (b) improve, replace or enhance the Transferred Assets ("**Improved Transferred Assets**"). All New Property and Improved Transferred Assets shall be the property of CCH Subsidiary.

4.3 Insurance. CCH Subsidiary will, at its expense, carry such type and amount of insurance concerning the Leased Assets as is required to satisfy the Bond Documents. In addition, CCH Subsidiary will, at its expense, carry "all-risk" property insurance, comprehensive general liability insurance, worker's compensation insurance, director and officer liability insurance, and professional liability insurance, in amounts determined by the CCH Subsidiary and consistent with policy limits for CentraCare hospitals of a similar size and nature. If the District has insurance policies that provide for coverage on a claims made basis with respect to acts prior to the Possession Date, the CCH Subsidiary either will purchase tail coverage for such claims or continue insurance for such prior acts. The CCH Subsidiary may elect to obtain such insurance as is required by this Section 4.3 by means of policies issued by insurance companies,

or by means of self-insurance. The proceeds of any property insurance on any Leased Asset will be applied as required by the Bond Documents, as long as the District Bonds remain outstanding, and then distributed to the CCH Subsidiary.

4.4 Indemnification. CCH Subsidiary will indemnify, defend and hold harmless the District and each of its current or former Board members, employees, officers, agents and contractors (District Indemnified Parties”) from and against any and all claims, losses, liabilities, damages, expenses and costs, including attorneys’ fees, incurred by any District Indemnified Party relating to, arising out of or otherwise associated with the Assumed Liabilities or the conduct of the Hospital’s operations after the Possession Date (including, but not limited to Benson Operations by CCH Subsidiary during the Term) or any challenges to the transactions contemplated by this Agreement. CCH Subsidiary shall also indemnify and hold the District Indemnified Parties and the County harmless from any and all claims, losses, liabilities, damages, expenses and costs, including attorneys’ fees, including those relating to an inquiry or adverse determination by the IRS related to the District Bonds arising out of Benson Operations by CCH Subsidiary during the Term. The terms of this Section 4.4 shall survive expiration or any earlier termination of this Agreement.

4.5 Third Party Claims. In the event of any action or proceeding involving a claim for which a District Indemnified Party seeks to be indemnified under Section 4.4, CCH Subsidiary may, to the full extent permitted by law, assume the defense of such third party action or proceeding at its own cost and expense and upon written notice to the District Indemnified Party; provided, however, that in the event of any inquiry or proceeding by the IRS with respect to the District Bonds, CCH Subsidiary shall not have any right to respond to or assume the defense thereof without written consent of District. In all cases, the District Indemnified Party shall reasonably cooperate in the defense of any such action or proceeding; provided that any expense incurred by the District Indemnified Party as the result of that cooperation shall be paid for by CCH Subsidiary.

ARTICLE V
GENERAL COVENANTS OF CCH SUBSIDIARY AND CENTRACARE

Except as otherwise provided in this Article V, CCH Subsidiary and CentraCare hereby agrees and covenants with the District to take the following actions during the Term (or such other period as may be specified below):

5.1 Execution of CCH Subsidiary Operating Agreement. Prior to the Possession Date, but effective thereon, CCH Subsidiary and CentraCare shall have entered into that certain Member Control and Operating Agreement in substantially the form attached hereto as Exhibit 5.1 (the “**CCH Subsidiary Operating Agreement**”).

5.2 Status. CCH Subsidiary shall maintain its existence as a Minnesota nonprofit limited liability company. CCH Subsidiary has not entered into and shall not enter into any lease, management contract, service contract, or similar arrangement which would give rise to any “private business use” of the Leased Assets as defined in the Code in an amount which would cause the District Bonds to lose their tax-exempt status under the Code.

5.3 Tax-Exempt Status; Tax Covenants. CCH Subsidiary and CentraCare will not use, or permit the use of, the Leased Assets, directly or indirectly, in a manner that would adversely affect the exclusion from gross income of interest on the District Bonds. To that end, CCH Subsidiary and CentraCare covenant that during the time any of the District Bonds remain outstanding:

(a) None of the Leased Assets financed with proceeds of the District Bonds will be used in any activity which constitutes: (i) an unrelated trade or business activity of CCH Subsidiary or any other Section 501(c)(3) Organization, determined by applying Section 513(a) of the Code; or (ii) a trade or business of a person other than a Section 501(c)(3) Organization or a State of the United States or a political subdivision of a State of the United States, to the extent that such use would adversely affect the exclusion from gross income of interest on the District Bonds.

(b) CCH Subsidiary and CentraCare shall not cause the District Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code. For purposes of this Section, the District Bonds are “federally guaranteed” if the payment of principal or interest with respect to the District Bonds is guaranteed, directly or indirectly, in whole or in part, by the United States (or any agency or instrumentality thereof).

(c) CCH Subsidiary and CentraCare have no present intention to sell or otherwise dispose of any substantial portion of the property acquired, financed, or refinanced with the proceeds of the District Bonds, in whole or in part, before the final maturity date of the District Bonds except such portions of the moveable equipment as may, pursuant to the express terms of this Agreement, be disposed of in the ordinary course of business because of normal wear and tear or obsolescence. CCH Subsidiary has not been an obligor with respect to state or municipal obligations issued within thirty (30) days prior to the date hereof which were sold pursuant to a common plan of financing with the District Bonds, and CCH Subsidiary does not expect to become an obligor with respect to any such obligations within thirty (30) days after the date hereof.

(d) While any portion of the District Bonds remains outstanding, no portion of the proceeds of the District Bonds will be used to provide any airplane, skybox, or other private luxury box, any facility primarily used for gambling, or a store, the principal business of which is the sale of alcoholic beverages for consumption off premises.

(e) CCH Subsidiary and CentraCare shall not cause the payment of the principal of, or interest on, more than five percent of the proceeds of the District Bonds to be directly or indirectly: (i) secured by any interest in (A) property used or to be used for a private business use or (B) payments in respect of such property; or (ii) to be derived from payments in respect of property, or borrowed money, used or to be used for a private business use as defined in Section 141 of the Code (except for by a Section 501(c)(3) Organization).

(f) CCH Subsidiary and CentraCare will promptly provide District with full information as to any use of the Leased Assets financed with proceeds of the District Bonds for which the District was not aware of prior to the Possession Date by anyone

other than a Section 501(c)(3) Organization, including the revenues and square footage involved. Nothing in this paragraph is intended to give CCH Subsidiary or CentraCare rights to assign this Agreement or sublease any portion of the Leased Assets not granted in Section 7.2 (except for by a Section 501(c)(3) Organization) for a use that is not an unrelated trade or business.

(g) No portion of the proceeds of the District Bonds is to be used directly or indirectly to provide residential rental property for family units.

(h) CCH Subsidiary and CentraCare have not leased, sold, assigned, granted, or conveyed and will not lease, sell, assign, grant, or convey all or any portion of the Leased Assets or any interest therein to the United States or any agency or instrumentality thereof within the meaning of Section 149(b) of the Code.

(i) CCH Subsidiary and CentraCare are each, and throughout the term of the District Bonds will remain, a nonprofit organization described and qualified under Section 501(c)(3) of the Code, that is not a “private foundation” as defined in Section 509(a) of the Code.

(j) There is no action, proceeding, or investigation pending or threatened or any basis therefor by the IRS or authorities of the State of Minnesota which, if adversely determined, might result in a modification of the status of CCH Subsidiary or CentraCare as a nonprofit organization described and qualified under Section 501(c)(3) of the Code.

(k) No part of the Leased Assets will be subject to a contract for management services except for contracts for management services which will not adversely affect the exclusion from gross income of interest on the District Bonds. CCH Subsidiary and CentraCare will not enter into any research contracts that currently or in the future result in (i) another entity having an ownership interest in the Leased Assets; (ii) actual or beneficial use of the Leased Assets by another entity pursuant to a lease; or (iii) another party using the Leased Assets pursuant to a management or incentive payment contract.

(l) CCH Subsidiary and CentraCare shall operate the Leased Assets in a manner that complies with the requirements of Minnesota Laws 1992, Chapter 534, as amended from time to time.

(m) Any Improvements to the Leased Assets made by CCH Subsidiary or CentraCare during the term of this Agreement shall comply with the terms of the then outstanding District Bonds to which the Leased Assets are subject.

5.4 Bond Covenants. As long as the District Bonds remain outstanding, notwithstanding any other provision of this Agreement, CCH Subsidiary and CentraCare shall be subject to the agreements and covenants set forth in the Bond Documents.

5.5 Licenses and Approvals. At all times during the Term, CCH Subsidiary shall maintain such licenses and obtain such approvals as are deemed necessary by CCH Subsidiary to comply with statutes, regulations or codes applicable to the Benson Operations.

5.6 Medicare Certification. At all times during the Term, CCH Subsidiary shall maintain Medicare certification of the Hospital and the other Benson Facilities.

5.7 Medical Staff. On or before the Possession Date, CCH Subsidiary shall adopt Bylaws, Rules and Regulations of Hospital's Medical Staff in effect as of the Possession Date and shall extend privileges to all members of Hospital's Medical Staff in compliance with such Bylaws, Rules and Regulations on identical terms as in effect as of the Possession Date. CCH Subsidiary shall maintain an open Medical Staff, unless it determines otherwise based on the best interests of the community served by the Hospital.

5.8 Commitments to Serve the Community.

(a) The Hospital and the other Benson Facilities shall be open to all residents of the communities they serve on equal terms. CCH Subsidiary agrees that it will not discriminate against any person in admission, treatment or participation in its programs, services or activities or deny any person the full and equal enjoyment of its facilities, accommodations, goods, advantages or privileges based on race, color, national origin, ethnicity, culture, language, disability, age, creed, religion, sex, marital status, sexual orientation, gender identity or expression, socioeconomic status or other protected class status as provided by applicable law.

(b) CCH Subsidiary will operate the Hospital and the other Benson Facilities as a charitable healthcare organization in accordance with the "community benefit standards" as they apply to Section 501(c)(3) hospital nonprofit corporations, including the (i) acceptance of all Medicare and Medicaid patients, (ii) acceptance of all emergency patients without regard to ability to pay, (iii) maintenance of an open medical staff, (iv) provision of public health programs of educational benefit to the community, and (v) general promotion of public health, wellness, and welfare to the community through the provision of healthcare at a reasonable cost.

5.9 District Employees. All District Employees will be given an opportunity for employment with CCH Subsidiary, conditioned upon successful completion of a background study, DHS clearance if required for the position, verification of current licensure/certification and education required for the position, I-9 U.S. employment eligibility verification, satisfaction of the requirements of CentraCare Employee Health Services, such as immunizations, and subject to any prior employment history of the applicable individual with CentraCare or an affiliate. Terms and conditions of employment will be set by CentraCare, and employment will be subject to CentraCare policies and procedures. [*Subject to revision once Leased Employee Agreement is completed*]

5.10 Service Commitments.

(a) For the initial seven (7) years of the Lease, the CCH Subsidiary will operate the Hospital in Benson as a licensed general acute care hospital and furnish such services as were furnished by the Hospital immediately prior to commencement of the Lease, subject to a material change in the regulatory environment applicable to, or the economic performance of, the Hospital, in which case, with input from the CCH

Subsidiary Operating Committee and the District, and taking into account the scope of services furnished and access to providers at, and economic performance of, comparable CentraCare-affiliated hospitals, CentraCare will determine whether to continue to provide in Benson, senior services, inpatient beds, emergency department, surgery services, therapy services, and ambulance services. After the initial seven (7) years of the Lease, with input from the CCH Subsidiary Operating Committee and the District, CentraCare may modify the scope of services furnished in the Benson community.

(b) CentraCare will work collaboratively with the CCH Subsidiary to ensure the residents of Benson and the surrounding area have access to primary and specialty physician services.

(c) CentraCare will work collaboratively with the CCH Subsidiary and the District to determine what services and support will be provided by CentraCare as opposed to Carris Health and when such services and support might transition from CentraCare to Carris Health.

(d) CentraCare will install Epic electronic medical records at the Hospital, which will have a planned “go-live” date prior to January 1, 2021.

(e) CentraCare and the CCH Subsidiary will provide to the District a written annual report that identifies the capital expenditures made during each year no later than 180 days following the end of each year.

(f) CentraCare will provide required corporate support and back office services such as for physician recruitment, human resources, legal, purchasing, quality and safety programs as are provided to other hospitals owned and operated by CentraCare.

5.11 Capital Investments.

(a) CCH Subsidiary will make such capital expenditures as are determined by the CCH Subsidiary Operating Committee to be necessary and appropriate for the provision of the scope of healthcare services at the Hospital and as are consistent with the service commitments referred to in Section 5.10 above.

(b) Except as provided in Section 5.11(c), CentraCare will make capital investments at the Hospital in the amount of \$5 million over the initial five (5) years of the Lease, including without limitation capital investments related to the installation of Epic electronic medical records and other capital improvements in Exhibit 5.11(b).

(c) CentraCare’s obligation in Section 5.11(b) to make capital investments in the amount of \$5 million over the initial five (5) years of the Lease will be reduced dollar-for-dollar by any fines, penalties, damages or settlement amounts resulting from operation of the Hospital prior to commencement of the Lease; provided, that the capital investment to provide Epic in Exhibit 5.11(b) will not be reduced.

CentraCare will use reasonable efforts to contest such fines, penalties or damages, including filing appeals, and will not enter into any settlement agreement or pay any settlement amount without the District's consent, which will not be unreasonably withheld. CentraCare shall provide periodic updates regarding any fines, penalties, damages or settlements to the District Board. CCH Subsidiary and District shall not be obligated to repay CentraCare for capital investments made prior to or after the payment of any fines, penalties, damages or settlements.

(d) In addition to the \$5 million commitment referred to in Section 5.11(b), during the initial five (5) years of the Lease, the CentraCare Subsidiary will have the opportunity for further capital investment by CentraCare, on the same basis as other CentraCare-affiliated hospitals. In the event that CentraCare elects to make system-wide capital investments at all CentraCare-affiliated hospitals, such capital investments at the Hospital will not count against the \$5 million commitment.

(e) Following the initial five (5) years of the Lease, the CCH Subsidiary will be allocated capital investments on the same basis as other comparable CentraCare-affiliated hospitals.

(f) CentraCare and CCH Subsidiary shall provide to the District written annual reports that identify the capital expenditures made during the relevant period and cumulative since the Possession Date.

5.12 Corporate Support. At the request of CCH Subsidiary, CentraCare shall provide requested corporate functions and services, including back office services, physician recruitment assistance, operational support services, and quality and patient safety programs to CCH Subsidiary on the same cost basis as such functions and services are provided to other hospitals owned and operated by CentraCare or its affiliates reflecting the proportional amount of services that CentraCare provides to CCH Subsidiary.

5.13 Branding. During the Term, CCH Subsidiary will operate the Hospital under the name "Carris Health - Benson."

5.14 District Expenses. While the District remains in existence, CCH Subsidiary will make monthly payments to District equal to Districts' reasonable out-of-pocket expenses, including the cost of preparing its annual financial statement and audit, paying directors and officers liability insurance premiums, and conducting periodic meetings of the District Board.

ARTICLE VI **GENERAL COVENANTS OF DISTRICT**

The District hereby agrees and covenants with CCH Subsidiary to take the following actions during the Term (or such other period as may be specified below):

6.1 Operation in Ordinary Course. The District shall conduct Benson Operations from the date of this Agreement until the Possession Date in the ordinary course of business.

6.2 Consents and Notices. The District, prior to the Possession Date, shall obtain such consents and give such notices as may be required in connection with the assignment to CCH Subsidiary of the Assigned Contracts and the assumption by CCH Subsidiary of the Assumed Liabilities. The District shall provide CCH Subsidiary satisfactory evidence on or before the Possession Date that the District has obtained all such consents and given such notices.

6.3 Cooperation with CCH Subsidiary. The District shall cooperate reasonably with CCH Subsidiary in any manner necessary to enable CCH Subsidiary to fulfill its obligations and exercise its rights under this Agreement.

6.4 Update to Accounts Receivable, Accounts Payable Reports. The District shall deliver to CCH Subsidiary, upon request, accounts receivable and accounts payable reports as of the Possession Date.

6.5 Liens and Encumbrances. The District shall not suffer or permit any liens or encumbrances (other than any liens or encumbrances which may exist on the Possession Date) to be filed or exist against the Leased Assets except with the consent of CCH Subsidiary.

6.6 Sole and Exclusive Possession. Subject to satisfaction by CCH Subsidiary of its obligations under this Agreement, the District shall deliver to CCH Subsidiary sole and exclusive possession of the Leased Assets, and shall allow CCH Subsidiary to take and enjoy peaceful, quiet and undisputed possession of the Leased Assets, subject to the rights of third parties in such assets.

6.7 No Transfer. So long as CCH Subsidiary is not in default hereunder, the District shall not transfer its interest in the Leased Assets, except with the consent of CCH Subsidiary.

6.8 Eminent Domain. The District shall take no action to exercise the power of eminent domain or to cause any other governmental authority or person, firm or corporation acting under governmental authority to exercise such power over any of the Leased Assets.

ARTICLE VII

SALE, AFFILIATION, ASSIGNMENT, SUBLETTING AND IMPROVEMENTS

7.1 Restrictions on Sale of Leased Assets.

(a) During the Term, and so long as CCH Subsidiary is not in default hereunder, the District shall not, without first obtaining the prior affirmative consent of CCH Subsidiary, authorize any transaction providing for the sale or other disposition of any of the Leased Assets. Provided, that the District may, upon its dissolution under Minnesota law, assign this Agreement and the Leased Assets to the City and/or County.

(b) During the Term, without the prior affirmative consent of the District,
(i) CCH Subsidiary will not sell, convey or otherwise transfer any of the Leased Assets, other than for the disposition of obsolete or non-functional equipment, furnishings or other types of personal property that are replaced pursuant to Section 4.3 hereof in the normal course of business, and (ii) Carris will remain the sole member of CCH

Subsidiary and will not sell, convey or otherwise transfer any of its membership in CCH Subsidiary or admit any other party as a member of CCH Subsidiary; provided, however that Carris may transfer its membership interests in CCH Subsidiary to an affiliate of CentraCare; provided that such transfer shall not relieve CentraCare from any of its obligations under this Agreement. CentraCare agrees to cause Carris to comply with the terms of this Section 7.1(b).

7.2 Assignment and Subletting. Except as otherwise provided in this Agreement, neither CCH Subsidiary nor CentraCare shall assign this Agreement or its rights, duties and obligations hereunder to a third party without the prior written consent of the District, and the District shall not assign this Agreement or its rights, duties and obligations hereunder to a third party without the prior written consent of CentraCare. Notwithstanding the foregoing, CCH Subsidiary may (i) sublet any portion of the Leased Assets or (ii) enter into a contract for the management of one or more departments of the Leased Assets, such as radiology or emergency room, in each instance to healthcare professionals or business entities having expertise in the operation of such departments, so long as such sublease or management contract is consistent with state and federal laws and regulations and the terms of the District Bonds; provided, however, CCH Subsidiary shall not enter into a sublease, management contract, service contract, or similar arrangement that would give rise to “private business use” of the Leased Assets as defined in Section 141(b)(6) of the Code in an amount that would cause the District Bonds to lose their tax-exempt status under the Code. Notwithstanding the foregoing, District may, upon its dissolution, assign the Leased Assets and this Agreement to the City and/or County.

7.3 Improvements to the Leased Assets. From time to time CCH Subsidiary, at its cost and expense, may make improvements to the Leased Assets (“**Improvements to the Leased Assets**”) and such changes in and additions and alterations, structural or otherwise, to the Leased Assets which CCH Subsidiary deems necessary or desirable for Benson Operations, provided that all such Improvements to the Leased Assets shall be treated as Leased Assets for all purposes hereunder, provided, however, that in connection with the termination of this Agreement, the book value of the Improvements to the Leased Assets shall be treated as set forth in Section 11.4 of this Agreement.

ARTICLE VIII **DAMAGE, DESTRUCTION AND EMINENT DOMAIN**

8.1 Damage and Destruction. Subject to the requirements of the District Bonds or other permitted indebtedness then in effect, in the case of damage or destruction by fire or other casualty of the Leased Assets, the following terms shall apply. In the event that the Leased Assets, or any portion thereof, is damaged or destroyed by any casualty, then to the extent of the proceeds of the property insurance maintained by CCH Subsidiary pursuant to Section 4.3, CCH Subsidiary and CentraCare shall rebuild and restore the Leased Assets to substantially their condition immediately prior to the damage or destruction, including, without limitation: (1) all mechanical, electrical, and plumbing systems serving the Leased Assets; (2) the heating, ventilation, and air conditioning systems serving the Leased Assets; (3) the roof, foundation, and interior and exterior windows and walls of the Leased Assets; and (4) all tenant improvements to the Leased Assets constructed prior to the date of such damage or destruction. The District shall have no obligation to repair any damage to, or to replace the Leased Assets or any of CCH

Subsidiary's personal property, furnishings, fixtures, equipment, or other such property or effects of CCH Subsidiary, unless said damages are caused by the District's negligence or intentional wrongdoing. CCH Subsidiary shall commence the repairs required of it under this Section 8.1 within three hundred sixty five (365) days of the date of any damage or destruction, and the repairs shall be completed within two (2) years of commencement of repairs. In the event CCH Subsidiary is delayed in the commencement or completion of repairs by events beyond CCH Subsidiary's reasonable control, CCH Subsidiary's delay for commencement or completion of repairs shall be extended one day for each such day of delay. Notwithstanding anything to the contrary in this Section 8.1, in the event that the Leased Assets, or any portion thereof, is damaged or destroyed when less than twelve (12) months remain of the term of this Agreement, then CCH Subsidiary may, at its option, either (1) rebuild or restore the Leased Assets and repair the damaged portions thereof at its own expense as required above; or (2) terminate this Agreement effective as of the date the damage or destruction occurred, in which event all insurance proceeds shall be paid to the District, and the terms set forth in Section 11.4 shall apply to such termination. If CCH Subsidiary does not provide the District with written notice of CCH Subsidiary's exercise of its option to terminate this Agreement in accordance with this Section 8.1 within one hundred eighty (180) days after the damage or destruction, CCH Subsidiary shall have waived its option to terminate this Agreement. If material damage or destruction occurs to the Leased Assets such that they cannot be fully and completely repaired and/or reconstructed for any reason within two (2) years of the casualty, or such that they are not fully and completely repaired and/or reconstructed for any reason within two (2) years of the casualty, and CCH Subsidiary has not exercised its option to terminate the Lease in accordance with this Section 8.1, then the District may terminate this Agreement upon one hundred eighty (180) days prior written notice to CCH Subsidiary, in which event all insurance proceeds shall be paid to the District, and the terms set forth in Section 11.4 shall apply to such termination.

8.2 Eminent Domain. Subject to the requirements of the District Bonds or other permitted indebtedness then in effect, in the case that title to or the temporary use of any portion of the Leased Assets shall be taken under the exercise of the power of eminent domain by any governmental body (other than the District under Section 6.8) or by any person, firm or corporation acting under governmental authority (each, a "**Taking**"), the following terms shall apply. The District shall receive all Taking awards attributable to the Leased Assets with no discount for the value of the leasehold interest created by this Agreement. In the event that the Leased Assets, or any portion thereof, is subject to any Taking, then CCH Subsidiary shall, at the District's sole option and using proceeds of the Taking received by and controlled by the District, rebuild and restore the Leased Assets to substantially their condition immediately prior to the Taking to the extent reasonably practical; provided, however, that any activity taken pursuant to this Section 8.2 to rebuild or restore Leased Assets shall be paid for solely by the Taking awards received by the District, and CCH Subsidiary shall have no additional or further obligations with respect to rebuilding or restoring the applicable Leased Assets. CCH Subsidiary shall commence the repairs required of it under this Section 8.2 within three hundred sixty five (365) days of the date of any Taking, and the repairs shall be completed within two (2) years of commencement of repairs. In the event CCH Subsidiary is delayed in the commencement or completion of repairs by events beyond CCH Subsidiary's reasonable control, CCH Subsidiary's delay for commencement or completion of repairs shall be extended one day for each such day of delay. Notwithstanding anything to the contrary in this Section 8.2, in the event that the Leased Assets, or any portion thereof, is subject to any Taking when less than twelve (12) months

remain of the term of this Agreement , then CCH Subsidiary may, at its option, either (1) restore the Leased Assets and repair the damaged portions thereof as required above using the City's Taking proceeds; or (2) terminate this Agreement effective as of the date the damage or destruction occurred, in which event all Taking proceeds shall be paid to the City, as set forth in this Section 8.2. If CCH Subsidiary does not provide the District with written notice of CCH Subsidiary' exercise of its option to terminate this Agreement in accordance with this Section 8.2 within one hundred eighty (180) days after the Taking, CCH Subsidiary shall have waived its option to terminate this Agreement. If a Taking affects the Leased Assets such that they cannot be fully and completely repaired for any reason within two (2) years of the Taking, or such that they are not fully and completely repaired and/or reconstructed for any reason within two (2) years of the Taking, and CCH Subsidiary has not exercised its option to terminate the Lease in accordance with this Section 8.2, then the City may terminate this Agreement upon thirty (30) days prior written notice to CCH Subsidiary, in which event all Taking proceeds shall be paid to the City, and the terms set forth in Section 11.4 shall apply to such termination.

ARTICLE IX **REPRESENTATIONS AND WARRANTIES OF DISTRICT**

Except as otherwise noted in the District Disclosure Schedule, attached hereto as Exhibit 9, which is subject to updating by the District as of the Possession Date, the District hereby represents and warrants to CCH Subsidiary that the following representations and warranties are true and accurate as of the date hereof and as of the Possession Date:

9.1 Authority. The District has power and authority to execute and deliver this Agreement, and to carry out the transactions contemplated hereby and therein, respectively. The District Council, acting on behalf of the District in connection with this Agreement, is the properly appointed, acting, and duly authorized governing body of the District, and is acting in accordance with the provisions of the Act, or any successor or similar statute.

9.2 No Conflicts. The Agreement is duly executed and delivered and is a valid and legally binding obligation of the District enforceable in accordance with its respective terms. The execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, result in the creation of any lien, charge or encumbrance or the acceleration of any indebtedness or other obligation of the District, and are not prohibited by, in violation of or in conflict with any provisions of, and will not result in a default under or a breach of (i) any constitutional provision affecting the District, (ii) any ordinance, law or regulation, or (iii) any order, decree or judgment of any court or governmental agency to which the District or Hospitals a party or is bound.

9.3 Bonds. The District Bonds are the only bonds authorized and issued by the District which are outstanding as of the Possession Date and applicable to the Leased Assets.

9.4 Condition. Except as expressly stated in this Agreement, the District does not make any representations or warranties regarding the Leased Assets or the Transferred Assets, including any warranty as to merchantability or fitness for a particular purpose. CCH Subsidiary acknowledges that it is accepting the Transferred Assets and leasing the Leased Assets on an "AS IS," "WHERE IS" and "WITH ALL FAULTS" basis, based upon its own judgment.

ARTICLE X
REPRESENTATIONS AND WARRANTIES OF CCH SUBSIDIARY
AND CENTRACARE

CCH Subsidiary and CentraCare hereby represent and warrant to the District that the following representations and warranties are true and accurate as of the date hereof and as of the Possession Date:

10.1 Organization.

(a) CentraCare is a nonprofit corporation duly organized and in good standing under the laws of the State of Minnesota. CentraCare is an organization qualified under Section 501(c)(3) of the Code.

(b) Carris is a nonprofit limited liability company duly organized and in good standing under the laws of the State of Minnesota. Carris is an organization qualified under Section 501(c)(3) of the Code.

(c) CCH Subsidiary is a nonprofit limited liability company duly organized and in good standing under the laws of the State of Minnesota. As a single-member limited liability company of which the sole member is Carris, CCH Subsidiary is a disregarded entity that takes on the tax-exempt status of CentraCare, its sole owner. CCH Subsidiary has the power to lease and to own assets and to carry on its business as contemplated under this Agreement.

10.2 Authority. CentraCare and CCH Subsidiary each has the power to execute and deliver this Agreement and to carry out the transactions contemplated hereby. All actions required to be taken by CentraCare and CCH Subsidiary to authorize the execution, delivery and performance of this Agreement and all transactions contemplated hereby have been duly and properly taken.

10.3 No Conflicts. This Agreement is duly executed and delivered and is a valid and legally binding obligation of CentraCare and CCH Subsidiary and is enforceable against them in accordance with its respective terms. The execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, result in the creation of any lien, charge or encumbrance, or the acceleration of any indebtedness or other obligation of CentraCare or CCH Subsidiary, and are not prohibited by, in violation of or in conflict with any provision of, and will not result in a default under or a breach of (i) the articles of incorporation and bylaws of CentraCare, articles of organization or Operating Agreement of CCH Subsidiary, or any contract, agreement or other instrument to which CentraCare or CCH Subsidiary is a party or is bound, (ii) any ordinance, law or regulation applicable to CentraCare or CCH Subsidiary, or (iii) any order, decree or judgment of any court or governmental agency to which CentraCare or CCH Subsidiary is a party or is bound.

ARTICLE XI
DEFAULT, TERMINATION AND TRANSFER

11.1 Effect of Default by CCH Subsidiary or CentraCare. If (i) CCH Subsidiary or CentraCare fails to pay any Rent or other sum due under this Agreement and such failure continues for five (5) calendar days after written notice of such default from the District, (ii) CCH Subsidiary or CentraCare fails to perform any of its other material obligations under the terms of this Agreement and such failure continues for thirty (30) days after written notice of such default from the District (provided, however, that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then CCH Subsidiary shall not be deemed to be in default if CCH Subsidiary commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.), (iii) CCH Subsidiary, Carris or CentraCare adopts a plan of dissolution or files for bankruptcy, liquidation or receivership, or (v) the loss by the CCH Subsidiary of its tax-exempt status, then the District shall have the right to (a) terminate this Agreement upon written notice to the CCH Subsidiary at any time after expiration of the applicable cure period, if any, or (b) enforce the terms of this Agreement or the foregoing provisions of the CCH Subsidiary Operating Agreement by invoking any other right or remedy allowed at law or in equity, including without limitation an action for specific performance. If an event of default, as defined in this Section 10.1, shall occur, CentraCare shall pay to the District, on demand, all expenses incurred by the District as a result thereof, including reasonable attorneys' fees, court costs and expenses actually incurred.

11.2 Effect of Default by the District. If the District fails to perform or pay, in a full and timely manner, any of its obligations under the terms of this Agreement and such failure continues for thirty (30) days after written notice of such default from CCH Subsidiary (provided, however, that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the District shall not be deemed to be in default if the District commences such cure within said thirty (30) day period), or (ii) the District fails to apply all payments of Rent to make principal and interest payments on the District Bonds as and when due, then CCH Subsidiary shall have the right either to (a) terminate this Agreement upon written notice to the District at any time after expiration of the applicable cure period, if any, or (b) enforce the terms of this Agreement by invoking any other right or remedy allowed at law or in equity, including without limitation an action for specific performance.

11.3 Other Events of Termination. In addition to termination under Section 10.1 and 10.2, this Agreement will terminate:

(a) At the expiration of the Initial Term, in the event CCH Subsidiary notifies the District that it does not intend to renew this Agreement by the time period set forth in Section 2.2; or

(b) At the expiration of the Renewal Term;

11.4 Effect of Termination.

(a) Upon the termination of this Agreement for any reason other than a transfer by the District to CCH Subsidiary of the Leased Assets pursuant to Section 10.5,

in which case the provisions of Section 10.5 shall govern the termination process, the parties shall enter into negotiations to determine the time frame and conditions under which, if applicable, CCH will return the then-current Hospital operations and assets to the District. The parties shall take all steps reasonably necessary to allow the District (or such other party as the District shall designate as a successor lessee and operator of the Benson Facilities) to assume operations of the Benson Facilities so that there are no disruptions of services at the Benson Facilities, including, but not necessarily limited to, the following:

(i) CCH Subsidiary shall surrender possession of all Hospital Assets, including any improvements and additions thereto made pursuant to Sections 4.2 and 7.3, and, in the case of the Transferred Assets (including any Improved Transferred Assets and an amount of working capital equal to the Possession Date Working Capital (the “**Working Capital Reconciliation**”) and the New Property, shall take all such steps as are necessary to convey title thereto, to the District or its designee, free and clear of all liens, security interests and encumbrances, other than those relating to the liabilities assumed by the District (or its designee) pursuant to paragraph (ii) below; provided however, that nothing in this Section 11.4(a)(i) shall be interpreted to require CCH Subsidiary to return any Transferred Assets in amounts, value, or condition, consistent with the amounts, value, or condition of the Transferred Assets as of the Possession Date, including without limitation, the Hospital Funds, except for the Working Capital Reconciliation.

(ii) The District (or its designee) will assume such contracts, leases, subleases, and other agreements to which CCH Subsidiary is a party relating to Benson Operations, and the liabilities of CCH Subsidiary thereunder, that the District (or such designee) consents to assume and, from and after the termination date the District (or its designee) shall resume responsibility for Benson Operations and maintenance of the Hospital Assets; and

(iii) The District (or its designee) will have the right to offer employment to all CentraCare employees who are employed at the Benson Facilities in substantially the same manner as described in Section 5.9.

(b) If this Agreement is terminated by CCH Subsidiary under Section 10.2 (uncured default by the District), then at the time the actions in Section 11.4(a) are consummated, the District shall pay CCH Subsidiary an amount equal to the book value of all capital investments made by CCH Subsidiary in the Benson Facilities pursuant to Section 4.2 and Section 7.3 hereof prior to the termination of the Agreement.

(c) If this Agreement terminates under either Section 10.3(a) or (b) hereof due to the nonrenewal or expiration of the Term, then at the time the actions in Section 11.4(a) are consummated, the District shall pay CCH Subsidiary an amount equal to the book value of all capital investments made by CCH Subsidiary and CentraCare in the Benson Facilities pursuant to Section 4.2 and Section 7.3 hereof prior to the termination of the Agreement; provided, however, that any such payment shall be offset

(but not below zero) by the amount by which the Investment Fund on such date is less than the amount of the Investment Fund on the Possession Date.

(d) For the purposes of Section 11.4(b) and (c), the book value of CCH Subsidiary's capital investments shall be the amounts recorded as such on CCH Subsidiary's books as the date of termination of this Agreement using CCH Subsidiary's historical methods of cost depreciation consistently applied.

(e) At District's request, CentraCare will provide transition services to the District (or its designee) on a fair market value basis for a period of one (1) year after termination of this Agreement to assist in the transition of Hospital's Operations to the District or such designee. The terms of such transition services will be mutually agreed upon at the time of termination.

(f) Any proposed termination of this Agreement by the District only shall be effective upon the satisfaction of all obligations of the District set forth in this Section 11.4.

11.5 Enforcement of CCH Subsidiary and CentraCare Obligations by District.

(a) If, at any time after the Possession Date, the District makes a good faith determination that either CCH Subsidiary or CentraCare is in breach of its obligations hereunder, including but not limited to Sections 5.10 (Service Commitments) and 5.11 (Capital Commitments), then the District shall provide written notice thereof to CCH Subsidiary and CentraCare describing in reasonable detail the nature of the alleged breach and other information pertinent thereto (a "**Breach Notice**"). Upon receipt of a Breach Notice, representatives of CentraCare, CCH Subsidiary, and the District (along with their respective advisors) shall meet on a regular basis to discuss and resolve the alleged breach identified in the Breach Notice. If CCH Subsidiary, CentraCare and the District are unable to resolve the alleged breach by CCH Subsidiary or CentraCare identified in the Breach Notice to the reasonable satisfaction of the District within sixty (60) days of the delivery of the Breach Notice, then the District may bring and pursue an Enforcement Action on behalf of, and in the name of, the District with respect thereto. The District shall have the exclusive right and authority to make any and all decisions with respect to the prosecution of such Enforcement Action, including the decision to engage or dismiss legal counsel representing the District and the District in connection therewith and decisions to enter into settlement negotiations and to make and accept settlement offers with respect thereto. CentraCare and CCH Subsidiary acknowledge and agree that the District has standing to assert and bring an Enforcement Action on behalf of the District; provided, however, that the District shall only be authorized to seek equitable relief on behalf of in the form of an injunction or specific performance and shall not be authorized to seek money damages from CentraCare or CCH Subsidiary (other than specific performance of an obligation involving the payment of money) with respect thereto. "**Enforcement Action**" means any lawsuit, alternative dispute resolution process or similar proceeding brought on behalf of the District by, and at the election of, the District pursuant to this Section 11.5 in order to enforce one or more of CentraCare's or CCH Subsidiary's commitments contained herein.

(b) In the event the District Board incurs expenses following the submission of a Breach Notice to enforce the covenants of this Agreement that results in the District prevailing in an Enforcement Action, CentraCare shall be fully responsible for the reasonable expenses incurred by the District Board in connection therewith. The District Board shall provide CentraCare with invoices and other written documentation evidencing the expenses incurred by it in connection with an Enforcement Action to the extent the District prevails in an Enforcement Action against CentraCare or CCH Subsidiary.

11.6 No Termination. Neither CCH Subsidiary nor the District shall have the unilateral right to terminate this Agreement prior to the expiration of the Term, other than as set forth in this Article XI.

ARTICLE XII **CONDITIONS PRECEDENT TO CLOSING**

The obligations of the parties under this Agreement are subject to the satisfaction, on or prior to the Possession Date, of the following conditions:

12.1 There shall have been no material breach by any party in the performance of any of their respective covenants in this Agreement, each of the representations and warranties of each of them contained or referred to in this Agreement shall be true and correct in all material respects on the Possession Date as though made on the Possession Date, and there shall have been delivered to each party their respective deliveries as described in Article XIII below;

12.2 No order shall have been entered in any action or proceeding before any court or governmental agency, and no preliminary or permanent injunction by any court shall have been issued which would have the effect of (i) making the transactions contemplated by this Agreement illegal; or (ii) otherwise preventing consummation of such transactions; and there shall have been no federal or state statute, rule or regulation enacted or promulgated that could reasonably, directly or indirectly, result in any of the consequences referred to in clauses (i) or (ii) of this Section 12.2;

12.3 All necessary federal, state and local governmental approvals and consents shall have been obtained, without the imposition of any material conditions or restrictions and without the loss of any existing material waivers arising out of the closing of the transactions contemplated hereby;

12.4 If any governmental agency seeks to preliminary enjoin the transactions contemplated hereby, either party may decide not to proceed further with the transactions; provided, however, that if both of the parties agree to contest such preliminary injunction, each party shall bear its own costs and expenses associated therewith;

12.5 All third party consents or waivers required to be obtained with respect to the proposed transactions shall have been obtained or waived;

12.6 The District shall have received consent of the bondholders of the District Bonds *[TBD by District bond counsel]*;

12.7 The District shall have received an opinion of Briggs and Morgan, Professional Association, or its successors, as bond counsel;

12.8 The District, City and County shall have approved this Agreement;

12.9 No Material Adverse Change shall have occurred;

12.10 All Exhibits and Schedules in this Agreement provided for shall be complete in form and substance;

12.11 CentraCare shall have determined in its sole discretion that the CentraCare billing and other systems, including the Epic system, are prepared to integrate the Benson Facilities, such that CentraCare systems can accommodate such integration without significant disruption;

12.12 The Benson Facilities shall have been recredentialed, to the satisfaction of CentraCare, by third-party payors, including without limitation the Centers for Medicare and Medicaid Services;

12.13 CentraCare shall have determined to its satisfaction that (a) the transactions contemplated in this Agreement will not impair the Rural Health Clinic status of the Carris physician clinic located in Benson, Minnesota (the "RHC"), or (b) the RHC has been effectively redesignated, so as to maintain its status as a Rural Health Clinic; and

12.14 CentraCare and the District shall have received confirmation from the County that the real property used to operate the Benson Facilities will be exempt from taxation, for so long as CentraCare maintains its status as a tax-exempt organization. [*TBD Subject to further discussion*]

ARTICLE XIII **POSSESSION DATE DELIVERIES**

13.1 CentraCare and CCH Subsidiary Deliveries to the District. CCH Subsidiary shall deliver the following to the District on or before the Possession Date:

(a) Certificate of Good Standing of both CentraCare and CCH Subsidiary from the Minnesota Secretary of State.

(b) A certified copy of resolutions adopted by the Board of Directors of CentraCare, authorizing and approving the execution and performance of this Agreement by CentraCare and CCH Subsidiary.

CentraCare CCH Subsidiary also shall take any and all additional actions which may be reasonably necessary in order to complete the transaction on the Possession Date.

13.2 District Deliveries to CentraCare and CCH Subsidiary. The District shall deliver the following to CentraCare and CCH Subsidiary on or before the Possession Date:

- (a) A Bill of Sale, in a form mutually agreed upon by the parties, transferring the Transferred Assets to CCH Subsidiary as of the Possession Date.
- (b) Evidence of all consents and notices required by Section 6.2.
- (c) A certified copy of resolutions adopted by the District Council authorizing and approving the execution and delivery of this Agreement.
- (d) An opinion of bond counsel as described in Section 12.6.
- (e) Consent of the bondholders of the District Bonds as described in Section 12.7.

The District also shall take any and all additional actions which may be reasonably necessary in order to complete the transaction on the Possession Date.

ARTICLE XIV
MISCELLANEOUS

14.1 Notices and Payments. All notices, requests, demands, payments and other communications to be made hereunder shall be in writing and shall be deemed to have been duly given if either mailed by certified mail, return receipt requested, postage prepaid, or hand delivered and with such delivery evidenced by a signed receipt or sworn affidavit of the deliverer, as follows:

If to the District:

Swift County Benson Hospital District
1815 Wisconsin Avenue
Benson, MN 56215
Atten: Board Chair

If to CCH Subsidiary:

Carris Health – Benson, LLC

If to CentraCare:

CentraCare Health System
1406 Sixth Avenue N
St. Cloud, MN 56303
Attention: President
With a copy to: General Counsel

or to such other address as either party hereto may request by such written notice. Any notice given in accordance with this Article shall be deemed to have been received either three (3) days after it was mailed or upon delivery, whichever first occurs.

14.2 Severability. If any provision of this Agreement or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Agreement that can be given effect without the invalid provisions or application, and to this end the provisions of this Agreement are declared to be severable.

14.3 Entire Agreement. This Agreement, the Affiliation Agreement and the Exhibits attached hereto and thereto (including documents contained in Exhibits that are fully executed and in accordance herewith), contains the entire understanding of the District and of CCH Subsidiary with respect to the transactions contemplated hereby and supersedes all other agreements and understandings among the District, CCH Subsidiary.

14.4 Amendment. This Agreement may be amended only by a written agreement authorized by the affirmative vote of the governing body of both CentraCare and the District and executed by the authorized representatives of both parties.

14.5 Governing Law and Venue. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Minnesota. Venue shall lie exclusively in Stearns County, Minnesota.

14.6 Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, all of which together shall constitute one and the same Agreement.

14.7 Successors and Assigns. All the terms, conditions, covenants, agreements and provisions of this Agreement shall inure to the benefit of and be binding upon the District, CentraCare and CCH Subsidiary and upon their respective successors and permitted assigns. All of the terms, conditions, covenants, agreements and provisions of this Agreement pertaining to the Leased Assets shall also be construed as covenants running with the land.

14.8 Authorization of CCH Subsidiary to Act. Notwithstanding any other provisions of this Agreement, the District hereby authorizes CCH Subsidiary, at its sole discretion, to obtain any and all zoning and/or building permits, tax divisions and certifications of tax exempt status, filing plats of subdivision, negotiated agreements with public and private utilities, and any and all other documents and/or approvals required by or from any governmental authority exercising jurisdiction over all or any part of the Leased Assets, as CCH Subsidiary, in its sole discretion, shall from time to time deem necessary or appropriate in order to carry out the healthcare purposes of CCH Subsidiary. Nothing in this Article shall be deemed or construed as in any way limiting or amending the obligations of the District under Section 6.3 to cooperate with CCH Subsidiary in any way necessary in order to enable CCH Subsidiary to exercise their rights hereunder, including without limitation, the obligation to sign any and all documents and to take any and all other steps necessary to accomplish any of the actions set forth in this Article.

14.9 No Third-Party Beneficiary. This Agreement is for the benefit solely of the District, CentraCare and CCH Subsidiary and their respective successors and permitted assigns, and it shall give rise to no third party rights and shall not be enforceable by any other party (as a third party beneficiary or otherwise), including without limitation, rights related to (a) service commitments under Section 5.10 and (b) the CCH Subsidiary medical staff under Section 5.7.

14.10 Accounts Receivable. Some of the accounts receivable being or to be assigned and transferred are or may be due from governmental authorities or agencies, or intermediaries/agents thereof, under the programs commonly known as Medicare and Medicaid/Medical Assistance. To the extent those accounts receivable are not transferable or assignable, the assigning party shall collect those receivables and remit or endorse the receipts to the other promptly. Further, the assigning party hereby appoints the other as its attorney-in-fact to collect and endorse for payment of all the receivables being assigned and transferred in any way that the assigning party could collect them and endorse payment. This appointment is irrevocable, special and coupled with an interest.

14.11 Recordation. The parties agree to execute and file of record either this Agreement or a memorandum of lease evidencing the existence of this Agreement, the Term, and the Leased Assets in this Agreement leased.

14.12 Non-Delegation. No provision of this Agreement shall be construed to permit or require the delegation by the District of any governmental function of the District.

IN WITNESS WHEREOF, the parties hereto have caused their authorized representatives to execute this Agreement in their respective names effective as of the day and year first above written.

[Signature pages follow]



Request for Board Action

BOARD MEETING DATE:
December 3, 2019

Commissioner's Report

Department Information

ORIGINATING DEPARTMENT: Human Services	REQUESTOR: Catie Lee	REQUESTOR PHONE: 320-843-6301
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Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approval of PrimeWest JPB Agreement	
AGENDA YOU ARE REQUESTING TIME ON: Regular board	ARE YOU SEEKING APPROVAL OF A CONTRACT? No
IS THIS MANDATED? No	EXPLANATION OF MANDATE: County Board action needs to be taken to review and approve the grant request
BACKGROUND/JUSTIFICATION: Swift County along with 10 counties involved with Southern Prairie Community Care passed resolutions to join PWH in the procurement. This procurement did not follow the resolution the board made to have PWH as a single plan in Swift County. DHS chose to withdraw the procurement for 2020, citing a law suit by SCHA as the reason. It was determined by all 24 counties that were present at a PWH meeting that PWH would not join in on that lawsuit but try to work with DHS's new commissioner and to work on passing stronger CPB legislative language. It was determined by the group that having the 10 counties join the JPB to show the commitment we have by joining PWH JPB. This will be of no cost at this time to the counties joining PWH. Procurement for most of greater Minnesota has been postponed by 2 years. However, PWH and the 10 additional counties are working with DHS and legislature to work on getting in sooner than the procurement.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?	Click here to enter text.

Budget Information

FUNDING: Budget approval for these loans has been granted by the board.

Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Click here to enter text.	RECOMMENDATIONS:
COMMENTS: n/a	COMMENTS: Click here to enter text.

SECOND AMENDED AND RESTATED HEALTH CARE ACCESS INITIATIVE JOINT POWERS AGREEMENT

This Second Amended and Restated Health Care Access Joint Powers Agreement ("Agreement"), under the authority of Minnesota Statutes § 471.59, is made by and between the governmental units signing this Agreement. These governmental units will hereinafter be referred to as "Member Counties".

SECTION 1. LEGAL NAME AND GENERAL PURPOSES

The purpose of this Agreement is to establish a board of directors to organize, govern, plan and administer a multi-county health care access development organization.

The legal name of the Joint Powers entity shall be "PrimeWest Rural Minnesota Health Care Access Initiative," hereinafter referred to as "PrimeWest Health." The Board may, from time to time, adopt business names for PrimeWest Health. The purposes of PrimeWest Health shall be to promote affordable access to health care services in rural Minnesota counties served by PrimeWest Health. PrimeWest Health may accomplish these purposes by the operation of a County-Based Purchasing organization, by the establishment and operation of a Health Maintenance Organization, by the provision of administrative services to other health care organizations, and/or by such other lawful means as may be available to PrimeWest Health.

SECTION 2: JOINT POWERS BOARD COMPOSITION

PrimeWest Health shall be governed by a Joint Powers Board consisting of one County Commissioner to serve as a primary representative from each Member County. Each Member County shall also designate one County Commissioner to serve as an alternate representative to the Joint Powers Board in the absence of the primary representative.

SECTION 3: DEFINITIONS

- 1. County-Based Purchasing.** An option prescribed by Minnesota Statutes § 256B.692 that allows Counties to choose to purchase or provide health care services for persons eligible for the Minnesota Health Care Programs (MHCP).
- 2. Health Maintenance Organization.** A Health Maintenance Organization ("HMO") established under the provisions of Minnesota Statutes Chapter 62D.
- 3. Entrant Member.** A signatory to this Agreement that is a County in which PrimeWest has been authorized to operate as a County-Based Purchasing organization in accordance with Minnesota law, but has not entered into a contract with the Minnesota Department of Human Services (DHS) and/or the Centers for

Medicare and Medicaid Services (CMS) for the provision of services to Minnesota Health Care Program enrollees in such County.

4. **Established Member.** A signatory to this Agreement that is a County in which PrimeWest Health has contracted with DHS) and/or CMS for the provision of services to Minnesota Health Care Program enrollees in such County.
5. **Joint Powers Board.** The board of directors of PrimeWest Health.
6. **Member County.** Any County which is a signatory to this Agreement.
7. **Minnesota Health Care Programs (MHCP).** The following health care programs administered by the Minnesota Department of Human Services (DHS), for which PrimeWest Health provides County-Based Purchasing services: Medical Assistance (MA), MinnesotaCare (MnCare), Minnesota Senior Care Plus (MSC+), Special Needs BasicCare (SNBC), Minnesota Senior Health Options (MSHO), and other similar programs that may be established by DHS. This includes Federal Medicare Advantage Programs as they apply to Minnesota Health Care Programs.

SECTION 4: MEMBERSHIP

1. Agreement to Participate.

Entrant and Established Members of PrimeWest Health shall adopt a County Board resolution approving this Agreement. The addition of Member Counties shall be subject to a majority vote of the Established Members of the Joint Powers Board. The Joint Powers Board may define membership requirements, including required financial contributions as determined by PrimeWest, for additional Member Counties. Entrant Members shall pay PrimeWest Health the amount agreed upon between PrimeWest Health and the Entrant Member for costs incurred by Entrant Member participants participating on the PrimeWest Health Joint Powers Board, PrimeWest Health Public Health & Human Services Directors Committee, and the PrimeWest Health Quality & Care Coordination Committee, including participant stipend, travel and meal costs.

Each Established Member shall maintain cash or a letter of guarantee to meet its portion of the reserve funding as defined by the Joint Powers Board. Each Entrant Member County shall commit to join and participate in PrimeWest Health by submitting a County Board resolution to that effect to the chairperson of the Joint Powers Board contingent on PrimeWest Health successfully executing the Families and Children managed care contract between DHS and PrimeWest Health engaging PrimeWest Health to administer MA no later than December 1, 2020. The County Board resolution shall include the County Board's commitment to making a financial contribution to PrimeWest Health capital reserves in the amount determined by PrimeWest Health necessary to maintain

adequate Risk Based Capital for the Entrant County's population enrolled in PrimeWest Health Minnesota Health Care Programs. For the avoidance of doubt, an Entrant Member shall not be required to make its required financial contributions to PrimeWest Health until the award of a DHS or CMS contract that converts the Entrant Member to an Established Member. In addition, in the event PrimeWest Health decides to reject a contract offered by DHS to conduct MA managed care in the Entrant Counties, Entrant Members shall have no obligations to make required financial contributions to PrimeWest, and may withdraw from PrimeWest Health by providing notice in accordance with Section 4(2) of this Agreement.

Upon conversion from Entrant to Established Member, the County shall make required financial contributions to PrimeWest Health's capital reserves over a time period agreed upon by PrimeWest Health. If the County does not make its full required financial contribution to PrimeWest Health as of the date it becomes an Established Member, the County shall, as a condition of becoming an Established Member, provide an executed Promissory Note to PrimeWest Health for any portion of the required financial contribution not paid as of the date the County becomes an Established Member.

2. Member County Withdrawal and Termination.

An Established Member County may withdraw from this Agreement by filing with the Joint Powers Board Chair a written notice of intent to withdraw by December 31, one year prior to the year of withdrawal, or upon the completion of a DHS Minnesota Health Care Programs managed care competitive procurement process in which the Member County elects or recommends that DHS not contract with PrimeWest Health for conducting MA managed care in the Member County, and/or DHS elects not to contract with PrimeWest Health for conducting MA managed care in the Member County. The effective date of withdrawal for an Established Member shall be at the conclusion of the term of the last existing Minnesota Health Care Programs managed care contracts between PrimeWest Health and DHS or CMS with respect to the Member County. The effective date of withdrawal for an Entrant Member shall be the date notice of intent to withdraw is provided.

The Joint Powers Board may terminate any Member County's participation in this Agreement if the Member County does not select or recommend PrimeWest Health to be the single MA plan in its county as a result of a DHS MA managed care competitive procurement, and/or if DHS elects not to contract with PrimeWest Health as the single MA plan in the Member County, unless DHS elects to contract with PrimeWest Health as a choice of MA plans and PrimeWest Health has determined being choice of MA plan in Member County is financially feasible and does not place other Member Counties at greater financial risk. The effective date of the termination of an Established Member shall be at the

conclusion of the term of the last existing Minnesota Health Care Programs managed care contracts between PrimeWest Health and DHS or CMS for that Member County.

Any Established Member formally withdrawing or terminated from participation remains obligated to pay any required contribution according to the terms of this Agreement for the current year but shall have no further liability or obligation to the Member Counties except as to the actions, events, or responsibilities arising or occurring before the effective date of withdrawal. Any accumulated revenue, reserves, special board designated funds, property or equipment owned by the Joint Powers Board, shall be retained by the Joint Powers Board. A withdrawing or terminated Established Member shall be entitled to repayment of monies pursuant to any loan agreement.

Upon receipt of a notice of intent to withdraw, the Chair of the Joint Powers Board shall send a copy of said resolution to each Member County and to all applicable state and/or federal regulatory agencies.

The withdrawing Member County shall fulfill any outstanding responsibilities it may have with the State of Minnesota or to the remaining Member Counties or to other parties following its withdrawal from this Agreement. The withdrawing County shall be responsible to notify the State of Minnesota of its intent to continue or to discontinue its participation in the County-Based Purchasing program.

SECTION 5: QUORUM/VOTING

1. Quorum.

A quorum shall consist of no less than seventy-five (75) percent of all Member Counties. For purposes of matters that would involve an expenditure of funds, incurred liability, or increased financial risk by Established Members only, a quorum shall consist of no less than seventy-five (75) percent of all Established Members. For purposes of matters that would require an expenditure of funds, incurred liability, or increased financial risk by Entrant Members only, a quorum shall consist of no less than seventy-five (75) percent of all Entrant Members. Member Counties are represented at Board meetings by either the Member County's primary representative or alternate representative on the Joint Powers Board. No Board actions shall take place absent quorum.

2. Voting.

Board actions shall be determined by majority of the Member County votes cast at a meeting of the Board by each represented Member County's primary or alternate representative, unless otherwise provided in this Agreement or by applicable law;

provided, however, that only Established Members shall be entitled to vote on matters that would require an expenditure of funds, incurred liability, or increased financial risk by Established Members only, and only Entrant Members shall be entitled to vote on matters that would require an expenditure of funds, incurred liability, or increased financial risk by Entrant Members only. Each Member County has one vote. Abstentions shall not be counted as “votes cast” for purposes of this section. Passage or amendment of Bylaws shall be by a two-thirds majority of the votes cast at a meeting of the Board by each represented Member County’s primary or alternate representative. Voting by proxy is prohibited.

SECTION 6: OFFICERS

1. The Joint Powers Board shall annually elect from its Established Members a Chair, a Vice Chair, a Treasurer and a Secretary. Those officers shall serve through December 31 of the year when first elected and until his/her successor is elected.
2. An Officer shall be elected in the same manner as stated in #1 above to fill out an unexpired term of the Chair, Vice Chair, Treasurer or Secretary which becomes vacant.
3. The Joint Powers Board may elect or appoint such other officers as it deems necessary to conduct its meetings and affairs.
4. The Chair shall designate a recorder at each meeting, who need not be a Joint Powers Board member or alternate representative, and who shall distribute minutes of the last meeting to all Joint Powers Board members at least seven days prior to the next meeting.

SECTION 7: MEETINGS

1. The Joint Powers Board shall meet at least monthly on a schedule determined by the Joint Powers Board. All meetings of the Joint Powers Board shall be conducted in a manner consistent with the Minnesota Open Meeting Law (Minnesota Statutes Chapter 13D).
2. Meetings of the Joint Powers Board may be called or cancelled by the Chair or upon written request of a majority of the Joint Powers Board members.
3. Written notice shall be sent to all Joint Powers Board members at least seven days prior to each meeting.

SECTION 8: POWERS AND DUTIES

The powers and duties of the Joint Powers Board may include, but are not limited to, the following:

1. Exercising all lawful powers necessary and incidental to the implementation of the purposes and powers set forth herein including, but not limited to, the adoption of Bylaws to govern the functioning of the Joint Powers Board.
2. Operating a County-Based Purchasing program through all necessary and lawful activities incident thereto, including receiving and expending Minnesota Health Care Programs and Federal Medicare funds, or other funds from lawful sources including any governmental sources, gifts, or donations for the purpose of providing County-Based Purchasing services.
3. Providing access to affordable health insurance coverage in rural Minnesota.
4. Providing administrative and management services for other county and community-based health insurance or health care services organizations, including, but not limited to, other County-Based Purchasing organizations and Accountable Care Organizations.
5. Authorizing PrimeWest Health to obtain all applicable state licensure, registration and/or approval necessary to the implementation of the purposes and powers set forth herein including approval as a County-Based Purchasing program, licensure as a Health Maintenance Organization for group and individual health coverage programs, licensure as an Insurance Services Administrator, and/or such other licensure, registration or approval deemed necessary.
6. Approving the annual budgeting process and budget using the calendar year as the budget year.
7. Collecting money subject to the provisions of this Agreement from its Member Counties and from any other sources authorized by law.
8. Adopting Bylaws to govern the operations of the Joint Powers Board and adopting and implementing a plan to carry out its purpose identified herein.
9. Consulting with knowledgeable persons who can provide pertinent information to achieve its purpose.
10. Cooperating or contracting with the State of Minnesota and political subdivisions, Federal agencies, or private or public organizations to accomplish the purposes for which it is organized.

11. Contracting for or purchasing such insurance as the Joint Powers Board deems necessary for the protection of the Member Counties, the Joint Powers Board, its property and staff.
12. Accumulating reserve funds for the purposes herein mentioned and investing funds not currently needed for its operations. The Joint Powers Board shall define investment guidelines for all funds in accordance with statutory guidelines and standard government procedures.
13. Contracting, employing consultants, incurring expenses, and making expenditures necessary and incidental to the effectuation of its purpose and powers in conformance with the requirements applicable to contracts and purchases of all of the Member Counties.
14. Commissioning an annual audit of the books and accounts of the Joint Powers Board and making and filing a report with its Member Counties at least once each year. Strict accountability of all funds and reports of all receipts and disbursements shall be made.
15. Appointing such committees as it deems necessary to exercise the powers of the Joint Powers Board.
16. Receiving and sharing data from appropriate State and Federal agencies and Member Counties as necessary and appropriate to accomplish its purposes.

SECTION 9: FINANCIAL STRUCTURE

1. Annual Budget.

An annual budget shall be prepared by the Chief Executive Officer and submitted by December 15 to the Joint Powers Board for approval unless a later date is required by circumstances beyond the organization's control.

2. Cost Sharing.

a. County-based Purchasing.

In the event that Member Counties are called upon to provide capital funding for PrimeWest Health County-based Purchasing, costs will be shared proportionally among Member Counties based on each Member County's most recent 12-months' enrollment in the PrimeWest Health County-Based Purchasing programs.

b. Health Maintenance Organization.

In the event that Member Counties are called upon to provide capital funding for PrimeWest Health HMO, costs will be shared proportionally among Member Counties based on each Member County's most recent 12-months' attributed enrollment in the PrimeWest Health-HMO program. For this purpose:

- (1) Members enrolled through a Member County-owned organization that operates as an independent entity will be counted towards the attributed enrollment of that Member County.
- (2) Members enrolled through a multi-county joint powers organization that operates as an independent entity will be counted towards the attributed enrollment of each Member County, in proportion to that County's total population according to the most recent U.S. Census. Only enrollees attributed to Member Counties will be included if a multi-county joint powers organization includes a mix of Member Counties and other Counties.

c. Administrative Services.

In the event that Member Counties are called upon to provide capital funding for PrimeWest Health Administrative Services business, costs will be shared proportionately by the Established Members based on each Established Member's total population according to the most recent U.S. Census.

d. Payment of Contributions.

When funds are requested by the Joint Powers Board, Member Counties will have thirty (30) days to make their contribution after which point late fees of 1.5% per month will apply.

Accounts in arrears will be covered by the remaining Member Counties using the same allocation formula referred to in this section while collections are being pursued.

3. Excess Revenue Policy.

PrimeWest Health shall treat excess revenue from County Based Purchasing activities for Minnesota Health Care Programs in accordance with Minnesota Statutes §256B.692 and in accordance with federal regulations for excess Medicare revenue. Any excess revenues over necessary expenses not attributable to County Based Purchasing activities for Minnesota Health Care Programs and Medicare Advantage may be allocated at the discretion of the Joint Powers Board, in accordance with applicable law.

SECTION 10: STAFFING

1. Administration.

The Joint Powers Board shall be responsible for hiring, supervising and dismissing the PrimeWest Health Chief Executive Officer whose responsibilities include performing and overseeing the administrative, management and operational activities of PrimeWest Health.

2. Duties of the Chief Executive Officer.

Administrative, management and operational duties of the Chief Executive Officer shall include, but not be limited to the following:

- a.** Carrying out the mission and purpose of PrimeWest Health to promote access to health care services in rural Minnesota.
- b.** Hiring, supervising and dismissing employees and contractors necessary to assist in performing the administrative, management and operational activities of PrimeWest Health, in implementing policies established by the Joint Powers Board, and in promoting access to affordable health care services for individuals residing within the Member Counties.
- c.** Complying with all financial, legal and regulatory requirements and reporting obligations required of PrimeWest Health.
- d.** Preparing and presenting PrimeWest Health's proposed annual budget to the Joint Powers Board.
- e.** Implementing and carrying out all Joint Powers Board established policies.
- f.** Preparing agendas for the Joint Powers Board.

SECTION 11: DATA PRACTICES AND CONFIDENTIALITY

The Joint Powers Board and PrimeWest Health staff shall take steps to ensure compliance at all times with Minnesota Statutes Chapter 13, relating to Government Data Practices. The Joint Powers Board and PrimeWest Health shall take all reasonable steps and adopt all necessary policies and procedures to ensure PrimeWest Health's compliance with all applicable laws governing the privacy of individually identifiable health information, including the Minnesota Health Records Act, Minnesota Statutes §§144.291-144.34, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations.

SECTION 12: COMMITTEES

The Joint Powers Board may establish such committees, subcommittees, task forces or advisory groups as necessary for the operations of PrimeWest Health. Final decision making authority on behalf of PrimeWest Health with respect to recommendations or activities of any such committee, subcommittee, task force or advisory group shall remain with the Joint Powers Board.

SECTION 13: AMENDMENT OF JOINT POWERS AGREEMENT

Amendments to this Agreement must be approved by the County Board of each Member County hereof.

SECTION 14: MUTUAL INDEMNIFICATION

Each Member County shall fully indemnify and hold harmless the other Member Counties against all claims, losses, damage, liability, suits, judgments, costs and expenses by reason of the action or inaction of its employees or designees assigned to the Board. This agreement to indemnify and hold harmless does not constitute a waiver by any Member County of limitations on liability provided by Minnesota Statutes Chapter 466.

SECTION 15: TERMINATION

This Agreement shall continue in force until a unanimous vote of termination is passed by the Joint Powers Board, or until the Joint Powers Board only consists of one Member County. Upon dissolution of this Joint Powers Agreement, all property purchased or owned pursuant to this Agreement shall be sold and the proceeds thereof, together with all other assets not necessary for satisfaction of PrimeWest's obligations, shall be distributed in accordance with applicable law to the Established Members and proportionally across all Established Members based on each Established Member's most recent 12-months' enrollment in the PrimeWest Health County-Based Purchasing programs. The effective date of dissolution shall be established in a manner that will allow PrimeWest sufficient time to conclude its affairs in a manner consistent with its legal obligations.

SECTION 16: EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts.

BE IT FURTHER RESOLVED THAT this Agreement shall remain in full force and effect, subject to the terms stated herein, until such time as the Member Counties amend, revise, or terminate this Agreement.

We hereby commit this County to participation in this Amended and Restated Health Care Access Initiative Joint Powers Agreement according to the terms stated herein.

SWIFT

County

Dated: _____

Chair, County Board