

COPY

Funding Agreement

This Funding Agreement ("Agreement") is made this 3rd day of January, 2013, by and between **NORTH LAKE COUNTY HOSPITAL DISTRICT**, an independent special taxing district of the County of Lake, State of Florida, referred to herein as "North Lake County Hospital District" or "District", and **FLORIDA HOSPITAL WATERMAN, INC. ("Hospital") D/B/A FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC**, a Florida not for profit corporation and Hospital's licensed primary care clinic, referred to herein as "FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC" or "Clinic".

Whereas, the North Lake County Hospital District was recreated and the charter was reenacted under House Bill 1299, which is codified at 2012 Fla. Laws ch. 258 as the North Lake County Hospital District Act ("Act"), and the District was established as an independent special taxing district in the County of Lake, State of Florida; and

Whereas, the Act and House Bill 1299 defines that the public purpose of the District is to provide a means to pay for indigent care provided in accordance with the Act through the use of health care facilities not owned and operated by the board of trustees of the District ("Board of Trustees"); and

Whereas, the Act and House Bill 1299 state that the District may make and execute contracts and other instruments necessary in the exercise of its powers under this Act and do all things necessary to carry out the purpose of the District; and

Whereas, the permitted use of tax funds consistent with the public purpose of the District may be used to pay for indigent care provided by licensed primary care clinics physically located in the District that are

approved by the Board of Trustees, if the indigent care does not overlap or duplicate care available through other public health clinics physically located in the District and serving medically indigent residents of the District; and

Whereas, FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC is operated as a department of the Hospital, is a licensed primary care clinic physically located in the District, as more specifically described in the Act and House Bill 1299, and provides care for the medically indigent residents of the District; and

Whereas, for the purposes of sovereign immunity pursuant to Section 768.28(2) of the Florida Statutes, (a) FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC, as the primary care clinic physically located in the District with the main purpose of which is to provide indigent care and which directly delivers that care for compensation from the District as provided in House Bill 1299, and (b) any health care provider who volunteers his or her services to the FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC to provide indigent care without receiving personal financial compensation, shall be conclusively deemed to be acting as an instrumentality of the State; and

Whereas, the North Lake County Hospital District has accepted the request of FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC for the allocation of funds, approved FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC as a primary care clinic, and wishes to provide funds for the purposes and only for the purposes set forth in said request and this Agreement.

Now, Therefore, in consideration of the premises and the mutual representations, warranties, covenants and agreements herein contained, the parties hereby agree as follows:

A. North Lake County Hospital District shall provide FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC with funds for indigent care of residents of the defined District in an amount up to Clinic's actual costs of providing said care or the amount payable by the Medicare program for identical or substantially similar care in the territory of the District, whichever is less.

B. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC agrees as a condition of accepting said funds from the District to be subject to an audit of its records relative to the patients for whom payment is sought in order to ensure compliance with the Act and House Bill 1299 and to provide transparency and accountability. Clinic shall make available for review at Clinic upon a time mutually agreeable to the parties such information in the custody of Clinic as the District and/or its third party auditor, if applicable, reasonably requires in order to perform the audit under this Agreement, subject to any limitations that may be imposed by state or federal law.

FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC understands and agrees that all audit reports shall become public records upon acceptance by the Board of Trustees, provided, however, that the District agrees to protect and ensure the privacy and confidentiality of all individually identifiable health information of FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC patients as required by The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Florida law by, among other things, excluding individually identifiable health information of FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC patients from the audit reports.

The District acknowledges that, as a result of this Agreement, the District may become informed of, and have access to, valuable and confidential information of Hospital and Clinic (the "Hospital

Confidential Information”). Except as required by law and as otherwise permitted by this Agreement, the District shall not, at any time, either during or subsequent to the term of this Agreement, use, reveal, report, publish, copy, transcribe, transfer or otherwise disclose to any person, corporation or other entity, any of Hospital Confidential Information without the prior written consent of Hospital. In the event the District receives a compulsory process, such as a subpoena, requiring disclosure of Hospital Confidential Information, Provider shall immediately notify Hospital. Except for the audit report, upon the termination or expiration of this Agreement, the District shall promptly deliver to Hospital all deliverable Hospital Confidential Information which is in the District’s possession or control. The District shall require and ensure that all of District’s employees, agents and independent contractors shall be bound to and comply with the covenants and obligations of this Section B.

C. If, upon completion of any audit, it is determined that payment was made by the District that was not in compliance with the requirements of the Act and House Bill 1299, a rebuttable presumption is created that the District is entitled to a recoupment of the amounts in question.

In accordance with the Act, notice shall be provided to FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC and an opportunity to go forward with evidence rebutting the presumption in an informal setting shall be provided to FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC. Pending any judicial determination, the District may set off the amounts in question against any other amounts owed or to be owed to FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC. If informal resolution cannot be reached between the parties, the Board of Trustees may request a formal mediation conference.

D. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC agrees to ensure that all recipients of

indigent care for which payment is sought under the criteria of the Act and House Bill 1299 are qualified by the provider as "medically indigent persons and residents" of the District as described in the Act.

E. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC agrees to certify that any indigent care for which payment is requested in whole or part from the District is medically necessary.

F. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC agrees to certify, under penalty of perjury, that the eligibility verification procedures adopted by the Board of Trustees and provided in writing to the Clinic have been complied with and that it, in good faith, believes that the person is qualified to receive indigent care.

G. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC agrees if estimated payments are received from the District, the Clinic shall maintain such funds in a separate accounting of funds and document each eligible indigent care patient account. All direct documentation that is part of the audit record is subject to disclosure under Chapter 119, Florida Statutes, provided, however, that the District agrees to protect and ensure the privacy and confidentiality of all individually identifiable health information of Clinic patients as required by HIPAA and Florida law by, among other things, excluding individually identifiable health information of FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC patients from the audit reports.

H. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC, as a primary care clinic provider, agrees to comply with the policies and requirements relevant to this Agreement adopted by the North Lake County Hospital District and provided in writing to the Clinic, provided that said policies and requirements do

not conflict with the mission and policies and procedures of the Hospital or Clinic.

I. Provided all obligations of FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC as described above are met and continue to be met, payment shall be distributed to FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC, not to exceed the sum of ONE HUNDRED EIGHTY THOUSAND AND NO/100THS DOLLARS (\$180,000.00), under this Agreement by the North Lake County Hospital District.

J. The term of this Agreement shall commence on the 1st day of July, 2013 and shall continue to 30th day of June, 2014.

K. If either party breaches or fails to perform any requirement or provision of this Agreement, the non-breaching party shall give the breaching party 60 days notice of intent to terminate the Agreement, which notice shall specify the nature of the alleged breach. If the breaching party fails to correct the breach within the 60-day notice period, the non-breaching party may immediately terminate this Agreement at the end of the notice period, or take such actions and pursue such remedies as provided by law, or both. No remaining funds will be paid after termination of this Agreement. If at any time FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC fails to maintain or meet the obligations outlined in the Agreement, this Agreement shall be considered terminated and any monies paid in error shall be repaid to the North Lake County Hospital District within 60 days of the termination of this Agreement.

L. Each party ("Indemnifying Party") shall indemnify, defend and hold harmless the other party ("Indemnified Party"), its officers, directors, shareholders, employees, agents and affiliates from and against any and all claims, liability, damages and/or costs (including, without limitation, reasonable attorney's fees and expenses)

Indemnified Party may incur as a result of claims in any form by third parties related to or arising out of (a) Indemnifying Party's performance of, or failure to perform, any obligation under this Agreement, or (b) the material untruth of, or Indemnifying Party's failure to observe, any representation given to the Indemnified Party in connection with this Agreement.

M. FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC agrees that any funds received under this Agreement used other than as set forth in the Act and House Bill 1299 will be refunded to the District within fifteen (15) days of written notice from the District.

N. All notices, demands, or other writings required to be given or made or sent pursuant to this Agreement, or which may be given or made or sent, by either party, shall be deemed received when: (i) delivered personally, (ii) sent registered or certified mail, return receipt requested, or (iii) sent via a nationally recognized and receipted overnight courier service, to the parties at their respective principal office of record as set forth below or designated in writing from time to time. No notice of a change of address shall be effective until received by the other party.

DISTRICT:

North Lake Hospital District
Attention: Patricia A. Sykes-Amos, CPA
Greenlee, Kurras, Rice & Brown, CPAs
Post Office Box 8
Mt. Dora, Florida 32756
Phone: 352-383-6300
psamos@northlakecountyhospitaldistrict.org

FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC:

Florida Hospital Waterman, Inc.
1000 Waterman Way
Tavares, Florida 32778
Attention: Fran Crunk
Phone: 352-253-3300
fran.crunk@ahss.org

COPY TO:

Adventist Health System
900 Hope Way
Altamonte Springs, Florida 32714
Attention: Legal Department
Phone: 407-357-1000
andra.armstrong@ahss.org

O. It is further agreed that no modifications, amendments, or alterations of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and or equal dignity herewith.

P. North Lake County Hospital District and FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC warrant and represent that they have full power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized and no other corporate acts or proceedings on the part of North Lake County Hospital District and FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC are necessary to authorize this Agreement or to consummate the

transactions contemplated hereby, and this Agreement constitutes a valid and legally binding obligation of the parties.

Q. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

R. This Agreement, including each right and obligation referenced herein, shall not be assigned by either party without the express prior written consent of the other party, provided, however, that Clinic may assign this Agreement upon notice to District to any affiliated corporation established by Hospital or to an entity controlled by or under common control with an entity controlled by Adventist Health System in association with their administration, operation or ownership of the operations of Hospital or Clinic.

S. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

T. This Agreement shall be construed and all of the rights, powers and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Florida; provided, however, that the conflicts of law principles of the State of Florida shall not apply to the extent that they would operate to apply the laws of another state.

U. If any provision of this Agreement, or the application thereof to any person or circumstance, shall be held to be invalid, illegal or unenforceable in any respect by any court or other entity having the authority to do so, the remainder of this Agreement, or the application

of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall be in no way affected, prejudiced or disturbed, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

V. This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their respective successors and permitted assigns.

W. Any action or proceeding seeking to enforce any provision, or based on any right arising out of, this Agreement, shall be brought against either of the parties in the courts of the State of Florida, County of Lake, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Process in any action or proceeding referred to in the preceding sentence may be served on either party anywhere.

X. No failure by a party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, agreement, term or condition. Any party may waive compliance by the other party with any of the provisions of this Agreement if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.

In Witness Whereof, the parties hereto have made and executed this Agreement effective the date first written above.

[SIGNATURE PAGES FOLLOW]

Signed, sealed and delivered in our presence:

**NORTH LAKE COUNTY HOSPITAL
DISTRICT**

Sign: Catherine C. Hanson
By: Catherine C. Hanson
Chairperson

Witnesses:

Shirley Z. Paul
Christine Goldberg

STATE OF FLORIDA

COUNTY OF LAKE

Personally appeared before me this 3 day of JAN, 2014, Catherine C. Hanson as Chairperson of the North Lake County Hospital District, who, being duly sworn on oath, says that she is the Chairperson of the North Lake County Hospital District and that she hereby acknowledges the execution of the foregoing Funding Agreement.

Christine Goldberg
Notary Public

My Commission Expires: 11/18/15
(SEAL)



Signed, sealed and delivered in our presence:

**FLORIDA HOSPITAL WATERMAN, INC.
D/B/A FLORIDA HOSPITAL WATERMAN
COMMUNITY PRIMARY HEALTH CLINIC**

Sign: David Ottati

By: _____
President and CEO

Witnesses:

Dorise Grubbs

EJBL

STATE OF FLORIDA

COUNTY OF LAKE

Personally appeared before me this 20th day of November, 2013, David Ottati as President and CEO of FLORIDA HOSPITAL WATERMAN, INC. D/B/A FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC, who, being duly sworn on oath, says that he/she is the President and CEO of FLORIDA HOSPITAL WATERMAN, INC. D/B/A FLORIDA HOSPITAL WATERMAN COMMUNITY PRIMARY HEALTH CLINIC and that he/she hereby acknowledges the execution of the foregoing Funding Agreement.

Nancy Powell

Notary Public

My Commission Expires: April 25,
2014
(SEAL)

