

InnoVative CAPITAL®

FHA Mortgage Banking & Financial Advisory Services for the Healthcare Industry

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SENT VIA ELECTRONIC MAIL

April 7, 2015

Horace Daniel
Chairman
Washington County Board of Commissioners
P.O. Box 271
119 Jones Street
Sandersville, Georgia 31082

Re: Washington County Board of Commissioners - Financial Advisory Services Agreement

Dear Mr. Daniel:

The Washington County Board of Commissioners (the "County") has retained InnoVative Capital, LLC ("InnoVative Capital") as its financial advisor to provide the services listed herein (the "Engagement"). This letter (the "Letter Agreement") sets forth the terms and conditions under which InnoVative Capital agrees to provide its hospital consulting and financial advisory services (collectively, the "Financial Services") in connection with InnoVative Capital's representation of the County, specifically, as it pertains to Washington County Regional Medical Center ("WCRMC"). It is expected by both parties, that while the Engagement is between InnoVative Capital and the County, during the course of the Engagement, InnoVative Capital will be required to have direct interaction with the WCRMC board (the "Hospital Authority") and management of WCRMC. In order for InnoVative Capital to complete the Engagement, the County will be responsible for facilitating such interaction and access.

I - OUR UNDERSTANDING

WCRMC is presently operating under a management agreement (the "Management Agreement") with University Health Care System of Augusta, Georgia ("University") executed in December 2014, under which, among other things, University provided WCRMC with an onsite CEO to replace WCRMC's recently departed CEO. In March 2015, University met with the County and presented the County with three scenarios pertaining to WCRMC and University's proposed involvement with WCRMC going forward. The University scenarios presented to the County for its consideration were: (1) the County assumes all debts and liabilities of WCRMC (estimated to be \$10 million) and University will lease WCRMC; (2) the County agrees to make annual payments of \$2 million for five years and University will continue to manage WCRMC; and (3) the County works with the Hospital Authority to close the facility. While University did not provide a deadline for any County decision, its Management Agreement provides for University's ability to terminate the Management Agreement without cause, with 180 days notice. InnoVative Capital will evaluate University's interests in WCRMC and work to negotiate a favorable arrangement under which University may manage, lease, joint venture, or acquire WCRMC (the "Transaction"). While doing so, InnoVative Capital will also evaluate alternatives to University and solicit, negotiate and potentially execute the Transaction with a partner other than University. In all cases, InnoVative Capital will use its best business efforts to seek to limit the financial involvement of the County in the Transaction.

InnoVative Capital, LLC

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II - THE ENGAGEMENT

Listed below is a summary of the Financial Advisory process under which InnoVative Capital expects to represent the County and work to execute the Transaction. It should be noted that in addition to any requirement the County may have to be represented by outside counsel during the course of the Engagement, depending upon the work and Transaction, additional independent consultants may be required to be retained by the County.

- 1- Due diligence review of the current situation confronting WCRMC, including its recent and present financial and operational performance. InnoVative Capital will request and review all financial and operational information as well as documentation relating to WCRMC, including its contracts with University, and pertinent regulations. InnoVative Capital will also research similar hospital situations in the State of Georgia, including those pertaining to University's acquisition of McDuffie Hospital.
- 2- Lead an initial strategy session with representatives of the County and Hospital Authority on April 14th in Sandersville.
- 3- Interface with key parties such as: attorneys, hospital management, University, potential new hospital suitors, the Hospital Authority, consultants, the County and the State.
- 4- Evaluate financial condition of WCRMC.
- 5- Assess the debt and liabilities of WCRMC.
- 6- Evaluate initial proposals made by University (currently three scenarios) pertaining to WCRMC.
- 7- Work to value the assets and hospital enterprise.
- 8- Ascertain the economic impact WCRMC provides to the County.
- 9- Identify Transaction options and alternative partners for the County and Authority and work to make the process competitive, if possible.
- 10- Define the required and recommended level of County capital contribution, if any.
- 11- Solicit alternative proposals for submission to University.
- 12- Negotiate with University and/or an alternative hospital partner ("collectively, the "WCRMC Partner").
- 13- Execute the Transaction with the WCRMC Partner.
- 14- If the Transaction involves the WCRMC Partner's commitment to a replacement hospital or major renovation project ("Hospital Modernization Project"), InnoVative Capital may provide mortgage banking services for this purpose under a separate contract with the WCRMC Partner, if asked to do so by the WCRMC Partner, the Hospital Authority, or the County.

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III - TERM OF ENGAGEMENT

This Engagement shall begin immediately following execution of this Letter Agreement and receipt by InnoVative Capital of its initial fee of \$10,000 as discussed in Section IV below. InnoVative Capital and the County will use its best business efforts to seek to complete the work contemplated in this Letter Agreement by no later than December 31, 2015, and this Letter Agreement shall expire on December 31, 2015, pursuant to Georgia law governing multi-year contracts entered into by counties. However, should additional time be required, InnoVative Capital shall give notice to the County no later than December 1, 2015, of the need for additional time, as well as an estimate of the amount of time needed. Unless the County terminates this Letter Agreement under the provisions and penalties set forth in Section IV-*Termination* detailed herein, before December 15, 2015, such notification shall extend this Letter Agreement through the date of completion or through December 31, 2016, whichever is earlier. This notification and renewal provision may be repeated for years succeeding 2016.

IV - PROFESSIONAL FEES & EXPENSES

Financial Advisory Fee:

Upfront Payment - The County agrees to pay InnoVative Capital \$10,000 to commence the Engagement. This payment represents InnoVative Capital's upfront fee of \$30,000, minus credit for an initial payment of \$20,000 made by the County to InnoVative Capital, on or about September 17, 2014.

Monthly Payments - InnoVative Capital shall be paid \$7,000 per month during the term of the Engagement by the County. These payments shall be made pursuant to the terms of this Letter Agreement and shall be due and payable at the first of each month. The initial monthly payment shall be due the first day of the first month succeeding the date of this Letter Agreement. For the purpose of this Letter Agreement, the first monthly payment of InnoVative Capital's Financial Advisory Fee shall be due May 1, 2015.

Success-Based Transaction Fee - InnoVative Capital shall earn and be paid by the County a Success-Based Transaction Fee pursuant to the schedule represented in the following chart.

1. External Management Contract (including the extension of the Management Agreement) or Replacement of Internal Management*(see *footnote at the end of this Section)

InnoVative Capital's Fee is due upon execution of the External Management Contract (or, extension of the Management Agreement), or, retention of Replacement Internal Management.

County Net Debt Funding Requirement	InnoVative Capital Transaction Fee With University As Partner	InnoVative Capital Transaction Fee With An Alternative Partner
\$7 million to \$10 million	\$40,000	\$80,000
\$5 million to \$7 million	\$60,000	\$100,000
Below \$5 million	\$100,000	\$140,000

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2. Change of Ownership or Lease*(see *footnote at the end of this Section)

InnoVative Capital's Fee is due upon execution of a Change of Ownership or Lease Agreement.

County Net Debt Funding Requirement	InnoVative Capital Transaction Fee With University As Partner	InnoVative Capital Transaction Fee With An Alternative Partner
\$7 million to \$10 million	\$40,000	\$80,000
\$5 million to \$7 million	\$40,000 plus 3% times the final Net Debt Funding Req. < than \$7 million	\$80,000 plus 3% times the final Net Debt Funding Req. < than \$7 million
Below \$5 million	\$100,000 plus 5% times the final Net Debt Funding Req. < than \$5 million	\$140,000 plus 5% times the final Net Debt Funding Req. < than \$5 million

3. Hospital Modernization Project (Replacement or Substantial Renovation)* (see *footnote at the end of this Section)

InnoVative Capital's Fee is due upon execution of an agreement by a WCRMC Partner to complete a Modernization Project.

County Net Debt Funding Requirement	InnoVative Capital Transaction Fee University is Partner	InnoVative Capital Transaction Fee An Alternative Partner
\$7 million to \$10 million	\$340,000	\$380,000
\$5 million to \$7 million	\$340,000 plus 3% times the final Net Debt Funding Req. < than \$7 million	\$380,000 plus 3% times the final Net Debt Funding Req. < than \$7 million
Below \$5 million	\$400,000 plus 5% times the final Net Debt Funding Req. < than \$5 million	\$440,000 plus 5% times the final Net Debt Funding req. < than \$5 million

*The Net Debt Funding Requirement is calculated as follows: under the terms of any negotiated Transaction, the sum of: (1) any WCRMC liabilities to be assumed and paid by the County; plus; (2) any required annual subsidies to be made by the County, (which for the purpose of determining the Net Funding Requirement will be calculated as follows: the contracted number of years of the County's annual subsidy (with a not to exceed ten years) times the dollar amount of the subsidies times seventy-five percent); minus; (3) any contracted lease payments made by the WCRMC Partner.

*The calculation of Net Debt Funding Requirement does not include any indigent care payments made by the County.

Out-of-Pocket Expenses:

In addition to its Financial Advisory Fees and Transaction Fee, the County agrees to reimburse InnoVative Capital monthly for its out-of-pocket expenses relating to the Engagement, which is expected to be limited to its travel costs and the costs associated with any required purchase of research-related data. In all cases, InnoVative Capital agrees to obtain the County's approval before incurring any individual item expense exceeding \$1,500.

V - MISCELLANEOUS

Confidentiality:

Unless obligated by law, neither the County or InnoVative Capital shall disclose the contents of this Letter Agreement, or any proprietary information received during the Engagement, to any third party, including,

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without limitation, any financial institution or intermediary, without the other party's prior consent. The County and InnoVative Capital agree to inform all such third parties who receive information concerning this Letter Agreement that such information is confidential, may not be disclosed to any other person, and obtain such third party's agreement to keep such information confidential. Notwithstanding the foregoing, the County may make such limited disclosures of this Letter Agreement as may be required to lawfully enter into this Letter Agreement. Furthermore, InnoVative Capital and the County maintain the right to disclose a summary of the nonproprietary parts of the transaction in their corporate marketing efforts.

In entering the foregoing, InnoVative Capital and the County agree and understand that the County is subject to the Georgia Open Records and Open Meetings Laws, OCGA § 50-8-40 *et seq.* Pursuant to that law, InnoVative Capital hereby states and asserts that its conclusions, analyses, and recommendations performed pursuant to this engagement with the County are considered by InnoVative Capital to be "Trade Secrets" as defined by OCGA § 10-1-761 and other provisions of the Georgia Code. Specifically, InnoVative Capital expresses a desire to ensure that its valuable work is protected to the extent possible by law from appropriation by entities not a party to this Letter Agreement. Therefore, should the County receive a request for documents or other materials reflecting such analyses, conclusions, and recommendations, the parties shall follow the procedure outlined in OCGA § 50-18-72(a)(34), which specifically provides:

"An entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10. If such entity attaches such an affidavit, before producing such records in response to a request under this article, the agency shall notify the entity of its intention to produce such records as set forth in this paragraph. If the agency makes a determination that the specifically identified information does not in fact constitute a trade secret, it shall notify the entity submitting the affidavit of its intent to disclose the information within ten days unless prohibited from doing so by an appropriate court order. In the event the entity wishes to prevent disclosure of the requested records, the entity may file an action in superior court to obtain an order that the requested records are trade secrets exempt from disclosure. The entity filing such action shall serve the requestor with a copy of its court filing. If the agency makes a determination that the specifically identified information does constitute a trade secret, the agency shall withhold the records, and the requester may file an action in superior court to obtain an order that the requested records are not trade secrets and are subject to disclosure;"

Data Access Concerns Regarding WCRMC:

Since the Engagement is contracted between InnoVative Capital and County, and not WCRMC or the Hospital Authority, InnoVative Capital and the County acknowledge that for InnoVative Capital to be able to complete the Engagement, the County must facilitate InnoVative Capital's access to any pertinent WCRMC data and information regarding the Hospital Authority that InnoVative Capital may request, including, coordinate the cooperation of WCRMC's executive management and staff and Hospital Authority board members.

Proprietary Nature of InnoVative Capital's Analytics:

The County acknowledges that any InnoVative Capital generated analytics shall be done solely for the purposes stated herein, as required by InnoVative Capital in its execution of the Engagement. Further, the County agrees that it shall not rely on these reports for any other purpose, or distribute InnoVative Capital's work product or

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findings to any party, without either the expressed prior written consent of InnoVative Capital or resort to the procedures outlined in the "Confidentiality" subsection above.

Indemnification:

The County will indemnify, hold harmless and defend (by employment of competent legal counsel approved by InnoVative Capital) InnoVative Capital, and any of its employees, officers, directors, representatives and other agents (collectively "the InnoVative Capital Indemnities") from and against any and all third party claims, demands, actions, losses, liabilities, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees incurred in connection with InnoVative Capital's enforcement of the Letter Agreement against the County) that may be asserted against or incurred by the InnoVative Capital Indemnities and which is/are based upon, arise out of or result in any way from the services that are provided to the County by InnoVative Capital, except that provisions of this paragraph will not apply to any claims, demands, actions, losses, liabilities, costs or expenses that InnoVative Capital incurs due to its own gross negligence or intentional misconduct.

Arbitration:

Any controversy or claim arising out of or relating to this Letter Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The award of the arbitrator(s) shall be accompanied by a reasoned opinion, including findings of fact and conclusions of law. Each party shall be solely responsible for its own attorney fees and expenses incurred in arbitration. However, the prevailing party shall be entitled to an arbitration award, which can include the costs of arbitration (plus filing fees), attorney fees and expenses as part of any award. The place of arbitration shall be Atlanta, Georgia and this Letter Agreement shall be governed by the laws of the State of Georgia.

Severability; Waiver:

Any part, provision, representation or warranty of this Letter Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Letter Agreement or any of the documents referred to in this Letter Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.

Termination:

With Cause Termination by InnoVative Capital: If during the Engagement there has been a material breach of this Letter Agreement by the County, including the County's inability or unwillingness to facilitate the cooperation of WCRMC and the Hospital Authority, InnoVative Capital may terminate this Letter Agreement and the Engagement by delivering written notice to the County. Upon InnoVative Capital's termination of this Letter Agreement and the Engagement, the County shall immediately pay InnoVative Capital: (i) any fees due and expenses then outstanding; plus; (ii) the sum of all monthly fees which InnoVative Capital would have

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received under this Letter Agreement, through the end of the calendar year in which InnoVative Capital terminated this Letter Agreement With Cause. In addition, InnoVative Capital will have no further obligation to provide any services under the terms of this Letter Agreement.

In any event, should any Transaction contemplated under this Letter Agreement be completed within two years after the date of: (i) the Without Cause Termination of InnoVative Capital; or; (ii) any failure by the County to renew this Letter Agreement, at any renewal date; InnoVative Capital shall be entitled to and deemed to have earned, and will be paid by the County, its Success-Based Transaction Fee pursuant to the schedules included in *Section IV Financial Advisory Fees*, herein.

Termination by Washington County:

With Cause: In the event InnoVative Capital materially breaches any provision of this Letter Agreement, the County shall have the right to terminate this Letter Agreement upon InnoVative Capital's receipt of ninety (90) days prior written notice setting forth the basis for the material breach giving rise to the termination. However, InnoVative Capital shall be given a forty-five (45) day period to cure said breach before the County may terminate this Letter Agreement. In all instances, the County shall be required to pay InnoVative Capital all of its outstanding expenses and past fees due.

Without Cause: In the event the County terminates this Letter Agreement and the Engagement Without Cause, InnoVative Capital shall be entitled to the following: (i) the payment of any fees due and expenses then outstanding; plus; (ii) the sum of all monthly fees which InnoVative Capital would have received under this Letter Agreement, through the end of the calendar year in which the County terminated InnoVative Capital Without Cause.

In any event, should any Transaction contemplated under this Letter Agreement be completed within two years after the date of: (i) the Without Cause Termination of InnoVative Capital; or; (ii) any failure by the County to renew this Letter Agreement, at any renewal date; InnoVative Capital shall be entitled to and deemed to have earned, and will be paid by the County, its Success-Based Transaction Fee pursuant to the schedules included in *Section IV Financial Advisory Fees*, herein.

Assignability:

This Letter Agreement shall be binding upon the parties hereto and not be assignable.

No Agency:

The relationship between InnoVative Capital and the County with respect to this Letter Agreement is that of independent contractor, and nothing herein shall create a principal/agent relationship or an employer/employee relationship between the County and InnoVative Capital.

No Third Party Beneficiaries:

The provisions of this Letter Agreement shall not entitle any party not a signatory to this Letter Agreement to any rights as a third party beneficiary, or otherwise, it being the specific intention of the parties hereto to

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preclude any and all nonsignatory parties from any such third party beneficiary rights, or any other rights whatsoever.

Reliance Upon Information Provided by Washington County:

The County understands that InnoVative Capital will rely upon information provided to InnoVative Capital, by the County or WCRMC and therefore, the County hereby affirms that to the best of its knowledge and belief all of the information and statements given are and shall be complete and accurate as of the date of their submittal. The County agrees to notify InnoVative Capital in writing immediately of any material change in the information so provided.

Survival:

Along with any provision which indicates by its terms that it is intended to be operative beyond the term of the Engagement, the Indemnification, Confidentiality, Fee and Expense provisions of this Letter Agreement shall survive any actual or purported termination of this Letter Agreement.

Approval; Acceptance:

Any individual executing this Letter Agreement on behalf of the County represents and warrants that: (i) he or she is duly authorized to execute and deliver this Letter Agreement on behalf of the County in accordance with the governing documents of Washington County; (ii) this Letter Agreement is binding on Washington County in accordance with its terms; (iii) this Letter Agreement is not in violation of, or inconsistent with, or contrary to provisions of any other agreement to which the County is a party; (iv) the terms and execution of this Letter Agreement comport with applicable laws, regulations, requirements, ordinances, and procurement codes; and (v) no other proceedings or actions by the County are necessary to authorize the execution, delivery and performance of this Letter Agreement.

Counterparts:

This Letter Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original and such counterparts shall constitute one and the same instrument.

Entire Agreement:

This Letter Agreement represents the entire agreement of the parties and there are no oral representations, express or implied warranties, other agreements, or promises pertaining to this Letter Agreement that are not incorporated in writing in this Letter Agreement. Each party expressly warrants, represents and hereby states that it is not relying upon any statement or representation of the other party or any agent of the other party in deciding to enter this Letter Agreement. Rather, each party is relying upon their own judgment to enter this Letter Agreement. This Letter Agreement may not be modified or amended except by an instrument in writing signed by an authorized officer of each party hereto. This Letter Agreement specifically supersedes the previous agreement executed between the County and InnoVative Capital, dated September 17, 2014, and both parties agree that said agreement is now null and void.

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Acceptance:

To indicate your acceptance of this Letter Agreement and the terms and conditions as defined herein, please deliver to InnoVative Capital the following (i) a signed copy of this Letter Agreement; (ii) InnoVative Capital's initial payment of \$10,000, and (iii) a copy of the County minutes from its meeting and a resolution approving the Engagement. Unless so accepted in writing, this Letter Agreement shall expire thirty days after the date indicated herein.

We appreciate the opportunity to be of assistance and look forward to working with you.

Sincerely,



Alan P. Richman
President & CEO
InnoVative Capital, LLC

Approved and Accepted by its Authorized Representative:

WASHINGTON COUNTY BOARD OF COMMISSIONERS

By: 

Name: Horace M. Daniel

Date: 4/13/15

cc. Chris Hutchings
Administrator / Clerk
Washington County Board of Commissioners