

SENT VIA ELECTRONIC MAIL

September 17, 2014

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

*Re: Financial and Operational Assessment of Washington County Regional Medical Center*

Dear Mr. Daniel:

InnoVative Capital, LLC ("InnoVative Capital") is pleased to have been asked by the Washington County Board of Commissioners ("Washington County") to provide this letter (the "Letter Agreement") enumerating the terms under which InnoVative Capital will produce a hospital consulting report for delivery to Washington County. This report will evaluate the financial and operational performance of Washington County Regional Medical Center ("WCRMC") and provide recommendations regarding strategic next steps for the hospital and county to consider. InnoVative Capital will present its assessment, findings and recommendations at a meeting with Washington County (the "Engagement").

## I - OUR UNDERSTANDING

Due to Washington County's concerns regarding the reported past and present financial condition of WCRMC, as well as tax support requested by WCRMC and the hospital board, Washington County has engaged InnoVative Capital to perform financial and operational analyses and assessments of WCRMC. In particular, InnoVative Capital will analyze the current financial and operational performance of WCRMC, generate its Identification of Issues Statement regarding WCRMC, review outstanding funding requests of Washington County by WCRMC, and produce a Strategic Road Map of Next Steps.

## II - SCOPE OF SERVICES OF THE ENGAGEMENT

InnoVative Capital agrees to complete the following:

- Hospital Financial and Operational Review – InnoVative Capital will analyze and develop an assessment of WCRMC's past and present performance relying upon a Request for Information (RFI), which will be responded to by Washington County, or directly by WCRMC. InnoVative Capital's analysis will incorporate financial benchmarking of WCRMC versus its peer group, based upon Georgia Hospital Association data, as well as industry sources. Additionally, the review will feature trend analyses and a summary of findings. \* The RFI request will be attached as an Appendix to this Letter Agreement.
- Staffing Study Review – Review WCRMC staffing level studies recently completed by WCRMC and outside parties and provide analysis.
- Review of Outstanding WCRMC Funding Requests of Washington County – A review and critique of any Washington County funding requests made by WCRMC will be provided.



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- Review and Critique Management and Consulting Proposals Received by WCRMC – Included in this assignment will be a review of management proposals previously submitted to WCRMC by management companies, as well as any collaboration agreement proposed or executed with University Healthcare System of Augusta.
- Identification of Issues Statement – This statement will review and highlight matters requiring immediate attention, such as: profitability, cash flow, liquidity, market pressures, operations and partnership needs. Action items will be identified and remediation strategies outlined.
- Produce a Strategic Roadmap of Next Steps – Based on our findings from the aforementioned analyses, we will produce a strategic roadmap and timetable for suggested next steps for Washington County to consider regarding WCRMC. The roadmap will include strategies to remediate any deficiencies and enhance areas of potential positive performance. This roadmap will focus on short and intermediate term action items, such as revenue growth, expense management, county support, hospital collaboration opportunities, and on-going concern issues.
- Present Finding to Washington County – Our Engagement will conclude with a presentation of our findings to the Washington County Board of Commissioners.

### **III. TERM OF ENGAGEMENT**

This Engagement shall begin as soon as practicable following execution of this Letter Agreement and receipt by InnoVative Capital of the \$20,000 up-front portion of the Hospital Consulting Fee discussed in Section IV below. InnoVative Capital and Washington County anticipate that all work contemplated in this Letter Agreement shall be completed no later than December 31, 2014, and this contract shall expire on December 31, 2014, pursuant to Georgia law governing multi-year contracts entered into by counties. However, should additional time be needed, InnoVative Capital shall give notice to Washington County no later than December 1, 2014, of the need for additional time as well as an estimate of the amount of time needed. Unless Washington County terminates this contract before December 15, 2014, such notification shall extend the contract through the date of completion or through December 31, 2015, whichever is earlier.

### **IV - PROFESSIONAL FEES & EXPENSES**

#### **Hospital Consulting Fee:**

Washington County agrees to pay InnoVative Capital a hospital consulting fee ("Hospital Consulting Fee") of \$40,000 as follows: (i) a non-refundable payment of \$20,000 upon the execution of this Letter Agreement and the commencement of the Engagement and, (ii) \$20,000 upon the presentation of its findings to Washington County.

#### **Out-of-Pocket Expenses:**

In addition to its Hospital Consulting Fee, Washington 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 to



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Washington County. In all cases, InnoVative Capital agrees to obtain Washington County's approval before incurring any individual expense exceeding \$1,500.

## **V - MISCELLANEOUS**

### **Confidentiality:**

Unless obligated by law, neither Washington 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, without limitation, any financial institution or intermediary, without the other party's prior written consent, (the exception being the RFI - Appendix, which may be distributed to WCRMC). Washington 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, Washington 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 Washington 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 Washington County agree and understand that Washington 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 Washington 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 Washington 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;"



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**Data Access Concerns Regarding WCRMC:**

Since the Engagement is contracted between InnoVative Capital and Washington County, and not WCRMC, InnoVative Capital and Washington County acknowledge that for InnoVative Capital to be able to complete the Engagement, Washington County must facilitate InnoVative Capital's access to any pertinent WCRMC data that InnoVative Capital may request, as well as, coordinate the cooperation of WCRMC's executive management and staff.

**Proprietary Nature of InnoVative Capital's Analytics:**

Washington 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, Washington County agrees that it shall not rely on these reports for any other purpose, or distribute InnoVative Capital's work product or 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:**

Washington 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 Washington 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 Washington 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, 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



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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:**

***Termination by InnoVative Capital:*** If during the Engagement there has been a material breach of this Letter Agreement by Washington County, InnoVative Capital may terminate this Letter Agreement by delivering written notice to Washington County. Upon termination of this Letter Agreement by InnoVative Capital, Washington County shall pay InnoVative Capital all of its outstanding expenses plus the sum the unpaid balance of its Hospital Consulting Fee due upon the completion of the Engagement. In addition, InnoVative Capital will have no further obligation to provide any services under the terms of this Letter Agreement.

***Termination by Washington County:*** In the event InnoVative Capital materially breaches any provision of this Letter Agreement, Washington County shall have the right to terminate this Letter Agreement upon InnoVative Capital's receipt of thirty (30) days prior written notice setting forth the basis for the material breach giving rise to the termination. Upon termination of this Letter Agreement by Washington County, Washington County shall pay to InnoVative Capital all of its outstanding expenses.

**Assignability:**

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

**No Agency:**

The relationship between InnoVative Capital and Washington 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 Washington 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 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:**

Washington County understands that InnoVative Capital will rely upon information provided to InnoVative Capital, by Washington County or WCRMC and therefore, Washington 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. Washington County agrees to notify InnoVative Capital in writing immediately of any material change in the information so provided.



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**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 Washington County represents and warrants that: (i) he or she is duly authorized to execute and deliver this Letter Agreement on behalf of Washington 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 Washington 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 Washington 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.

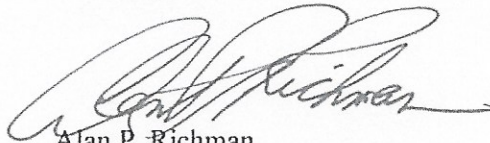
**Acceptance:**

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; and (ii) InnoVative Capital's initial Hospital Consulting Fee payment of \$20,000. Unless so accepted in writing, this Letter Agreement shall expire thirty days after the date indicated herein.

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

Sincerely,

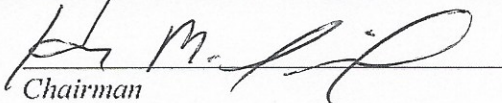


Alan P. Richman  
President & CEO  
InnoVative Capital, LLC

**Approved and Accepted by its Authorized Representative:**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

By:

  
Chairman

Name: Horace Daniel

Date: October 9, 2014

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

Appendix Attachment: Request for Information