



FOLEY & LARDNER LLP

Agenda Item No. 5.D.

Board of Directors Meeting

Date 12-3-08

November 25, 2008

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Dev Mahadevan
Chief Executive Officer
Sequoia Healthcare District
170 Alameda de las Pulgas, Room #114
Redwood City, CA 94062-2799

Re: Resolution 08-6.

Dear Mr. Mahadevan:

It is my understanding that the Board of Directors of Sequoia Healthcare District is considering Resolution 08-6 at its December 2008 meeting. Resolution 08-6 will amend the Sequoia Healthcare District Employees Pension Plan to make a number of changes required by recent federal law changes, as well as changes needed to conform California's recognition of same sex spouses to federal pension requirements. Sequoia Healthcare District has the written consent of Catholic Healthcare West dba Sequoia Hospital, in the form of this letter, to adopt Resolution 08-6, to the extent that adopting Resolution 08-6 constitutes one of the acts specified in Section 4.b of the Assignment and Assumption Agreement between Sequoia Health Services, Catholic Healthcare West and Sequoia Healthcare District, that was entered into in 1996.

Please contact me if you have any questions.

Very truly yours,



Samuel F. Hoffman

cc: Glenna Vaskelis, Administrator, Sequoia Hospital
Derek Covert, Esq., Sr. Vice President & General Counsel
Larry Reid

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**RESOLUTION 08-6
SEQUOIA HEALTHCARE DISTRICT**

**BOARD OF DIRECTORS
RESOLUTION ADOPTING REQUIRED AMENDMENTS TO THE
SEQUOIA HEALTHCARE DISTRICT EMPLOYEES PENSION PLAN**

WHEREAS, the Board of Directors (the "Board") of Sequoia Healthcare District (the "District") adopted the Sequoia Hospital District Employees Pension Plan, which has been amended and restated by the District in its entirety effective January 1, 1987, effective January 1, 1991, effective January 1, 1996, and again effective October 1, 1996 (as so amended and restated, the "Plan"); and

WHEREAS, pursuant to Article 13 of the Plan, the District may amend the Plan; and

WHEREAS, the Board now desires to amend the Plan in order to conform to the applicable provisions of IRS Notice 2007-94, the Pension Protection Act of 2006, In re Marriage Cases, 43 Cal. 4th 757; 76 Cal. Rptr. 3d 683, and the results of the November 2008 election whereby the voters approved the California Constitutional amendment to ban gay marriage, as set forth in Exhibit A; and

WHEREAS, the Board hereby authorizes the restatement of the Plan to incorporate the amendments as set forth in Exhibit A; and

NOW, THEREFORE, the following resolutions were passed and adopted by the Board at a duly noticed and constituted meeting held on the 3rd day of December, 2008, by a motion duly made, seconded and carried.

RESOLVED, that the Plan is hereby amended as set forth in Exhibit A hereto, effective as of the dates set forth therein, and that the Plan should be restated to incorporate such changes.

As the duly elected Secretary of Sequoia Healthcare District, I hereby certify that the above accurately reflects the resolutions which have been duly adopted and approved by the Board of Directors of Sequoia Healthcare District at its duly noticed and constituted meeting held on the 3rd day of December 2008, by the following vote:

Ayes: _____ Absent: _____
Nos: _____ Abstain: _____

_____, Secretary
SEQUOIA HEALTHCARE DISTRICT

**EXHIBIT A
AMENDMENT NO. 08-1**

**SEQUOIA HEALTHCARE DISTRICT EMPLOYEES PENSION PLAN
Amended and Restated Effective October 1, 1996**

1. Effective as of January 1, 2008, Article 2 (Definition of Terms) is amended by adding the following Section:

2.40 **Spouse.** A Participant's lawful Spouse, as defined by applicable state law. The term "Spouse" shall be substituted whenever the term "spouse" appears in the Plan.

2. Effective as of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006, Section 8.12 is revised by substituting "\$1000" for \$5000" in the two places where the latter currently appears.

3. Effective January 1, 2009, Section 8.13 (Lump Sum Payment Provisions) is amended in the following manner:

A. The definition of "Eligible Retirement Plan" is amended to read as follows:

(ii) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a); a qualified trust described in Code Section 401(a), an inherited individual retirement account or individual retirement annuity described in Code Section 408(d)(3)(C) or effective January 1, 2008, a Roth individual retirement account as described in Code Section 408A.

B. The definition of "Distributee" is amended by adding the following at the end thereto: " A non-Spouse Beneficiary can also be a distributee."

4. Effective May 15, 2008, Section 8.16 (Domestic Relations Orders) is amended to read as follows:

8.16 Domestic Relations Order.

(a) **Opposite Sex Marriages.** All rights and benefits, including elections, provided to a Participant under this Plan shall be subject to the rights afforded to any "alternate payee" under a "qualified domestic relations order," as those terms are defined in Code Section 414(p). Furthermore, a distribution to an alternate payee shall be permitted if such distribution is authorized by a qualified domestic relations order, even if the affected Participant has not then separated from service and has not reached the "earliest retirement age," as that term is defined in Code Section 414(p). Any distribution pursuant to a qualified domestic relations order may also be made in the form of (a) a

lump sum, (b) a monthly benefit payable for the life of the alternate payee, or (c) a reduced monthly benefit payable for the life of the alternate payee as described in Section 8.7 (ten year certain and life annuity option), so long as any such distribution is Actuarially Equivalent to the portion of the Participant's benefit hereunder that is awarded to the alternate payee pursuant to the qualified domestic relations order.

- (b) Same Sex Marriages. All rights and benefits, including elections, provided to a Participant under this Plan shall be subject to the rights afforded to a Spouse or former Spouse who is of the same sex as the Participant if provided in a valid state domestic relations order. If a domestic relations order is submitted to the Plan directing the Plan to pay all or a portion of a Participant's vested Accrued Benefit to a same sex Spouse or former same sex Spouse, the domestic relations order must comply with the requirements of Code Section 414(p) subject to the following modifications:
- (i) If the Spouse is not independently the Participant's tax dependent, as defined in Code Section 152, payment of the Spouse's interest cannot be made or commence until the Participant's Retirement Date. An exception is if the Actuarial Equivalent lump sum value of the Spouse's interest is less than the limit specified in Section 8.12, this lump sum can be paid once the Participant terminates service.
 - (ii) If the Spouse is the Participant's tax dependent as defined in Section 152, a distribution to the Spouse shall be permitted if such distribution is authorized by a domestic relations order, even if the affected Participant has not then separated from service and has not reached the "earliest retirement age," as that term is defined in Code Section 414(p).
 - (iii) Any distribution pursuant to a domestic relations order may also be made in the form of (a) a lump sum, (b) a monthly benefit payable for the life of the Spouse, or (c) a reduced monthly benefit payable for the life of the Spouse as described in Section 8.7 (ten year certain and life annuity option), so long as any such distribution is Actuarially Equivalent to the portion of the Participant's benefit hereunder that is awarded to the Spouse pursuant to the domestic relations order.

4. Appendix A (Minimum Required Distributions) is added to the end of the Plan document:

**APPENDIX A
MINIMUM REQUIRED DISTRIBUTIONS**

Section 1. General Rules

- 1.1. Effective Date. Unless an earlier effective date is specified elsewhere in the Plan, the provisions of this Appendix A will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- 1.2. Coordination with Minimum Distribution Requirements Previously in Effect. If the Plan specifies an effective date of this article that is earlier than calendar years beginning with the 2003 calendar year, required minimum distributions for 2002 under this article will be determined as follows. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Appendix equals or exceeds the required minimum distributions determined under this Appendix, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Appendix is less than the amount determined under this Appendix, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this Appendix.
- 1.3. Precedence. The requirements of this Appendix will take precedence over any inconsistent provisions of the Plan.
- 1.4. Requirements of Treasury Regulations Incorporated. All distributions required under this article will be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9).
- 1.5. TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this article, other than Section 1.4, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.
- 1.6. Spouse. Whenever the term "Spouse" is used in this Appendix A, the term does not include a same sex Spouse; the term "Spouse" shall refer only to a husband or wife who is of the opposite sex of the Participant.

Section 2. Time and Manner of Distribution.

- 2.1. Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- 2.2. Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (a) If the Participant's surviving Spouse is the Participant's sole designated beneficiary, then, except as provided in the Plan, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.
 - (b) If the Participant's surviving Spouse is not the Participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (c) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (d) If the Participant's surviving Spouse is the Participant's sole designated beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 2.2, other than Section 2.2(a), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 2.2 and Section 5, distributions are considered to begin on the Participant's required beginning date (or, if Section 2.2(d) applies, the date distributions are required to begin to the surviving Spouse under Section 2.2(a)). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 2.2(a)), the date distributions are considered to begin is the date distributions actually commence.

- 2.3. Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 3, 4 and 5 of this article. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations. Any part of the Participant's interest which is in the form of an individual account described in Code Section 414(k) will be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and the Treasury regulations that apply to individual accounts.

Section 3. Determination of Amount to be Distributed Each Year.

3.1. General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (a) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 4 or 5;
- (c) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (d) payments will either be nonincreasing or increase only as follows:
 - (1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 4 dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);
 - (3) to provide cash refunds of employee contributions upon the Participant's death; or
 - (4) to pay increased benefits that result from a Plan amendment.

3.2. Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 2.2(a) or (b)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

3.3. Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

Section 4. Requirements For Annuity Distributions That Commence During Participant's Lifetime.

- 4.1. Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonSpouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonSpouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- 4.2. Period Certain Annuities. Unless the Participant's Spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's Spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 4.2, or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the annuity starting date.

Section 5. Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.

- 5.1. Participant Survived by Designated Beneficiary. Except as provided in the Plan, if the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 2.2(a) or (b), over the life of the designated beneficiary or over a period certain not exceeding:
- (a) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or