



April 13, 2020

## NOTICE

The Board of Directors of the Kaweah Delta Health Care District will meet in an Special Open Board of Directors meeting at 9:30AM on Tuesday, April 14, 2020 in the Kaweah Delta – Support Services Compliance Department Conference Room (Accessed off Mineral King Avenue) 520 West Mineral King Avenue or via GoTo Meeting - Join from a video-conferencing room or system: Dial in or type: 67.217.95.2 or inroomlink.goto.com / Meeting ID: 152 120 741 Or dial directly: 152120741@67.217.95.2 or 67.217.95.2##152120741.

All Kaweah Delta Health Care District regular board meeting and committee meeting notices and agendas are posted 72 hours prior to meetings (special meetings are posted 24 hours prior to meetings) in the Kaweah Delta Medical Center, Mineral King Wing entry corridor between the Mineral King lobby and the Emergency Department waiting room.

Due to COVID 19 visitor restrictions to the Medical Center - the disclosable public records related to agendas can be obtained by contacting the Board Clerk at Kaweah Delta Medical Center – Acequia Wing, Executive Offices (Administration Department) {1st floor}, 400 West Mineral King Avenue, Visalia, CA via phone 559-624-2330 and on the Kaweah Delta Health Care District web page <http://www.kawahdelta.org>.

KAWEAH DELTA HEALTH CARE DISTRICT  
David Francis, Secretary/Treasurer

A handwritten signature in black ink that reads 'Cindy Moccio'.

Cindy Moccio - Board Clerk / Executive Assistant to CEO

**DISTRIBUTION:**

Governing Board

Legal Counsel

Executive Team

Chief of Staff

[www.kawahdelta.org](http://www.kawahdelta.org)



# KAWEAH DELTA HEALTH CARE DISTRICT BOARD OF DIRECTORS MEETING

Kaweah Delta Medical Center / Support Services Building  
520 West Mineral King – 2<sup>nd</sup> Floor – Compliance Department Conference Room

Please join my meeting from your computer, tablet or smartphone.  
<https://www.gotomeet.me/CindyMoccio/special-board-of-directors-meeting>

You can also dial in. United States: [+1 \(646\) 749-3112](tel:+16467493112) / Access Code: 152-120-741

## Tuesday, April 14, 2020

### OPEN MEETING AGENDA {9:30AM}

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **PUBLIC PARTICIPATION** – Members of the public may comment on agenda items before action is taken and after the item has been discussed by the Board. Each speaker will be allowed five minutes. Members of the public wishing to address the Board concerning items not on the agenda and within the subject matter jurisdictions of the Board are requested to identify themselves at this time.
4. **REVISIONS OF CO-APPLICANT AGREEMENT BY AND BETWEEN SEQUOIA HEALTH AND WELLNESS CENTERS AND KAWEAH DELTA HEALTH CARE DISTRICT** – Approval of revisions to the Co-Applicant Agreement by and between Sequoia Health and Wellness Centers and Kaweah Delta Health Care District.

*Ryan Gates, PharmD, CDE, Vice President – Population Health & CEO of Sequoia Health and Wellness Center*

**Public Participation** – Members of the public may comment on agenda items before action is taken and after the item has been discussed by the Board.

*Recommended Action: Approval of the revised Co-Applicant Agreement by and between Sequoia Health and Wellness Centers, A California Nonprofit Public Benefit Corporation and Kaweah Delta Health Care District, A California Health Care District. Authorize management to execute the revised Co-Applicant Agreement by and between Sequoia Health and Wellness Centers, A California Nonprofit Public Benefit Corporation and Kaweah Delta Health Care District, A California Health Care District and authorize*

*management to enter into the necessary agreements and take all necessary steps for the development of a look-alike Federally Qualified Health Center (FQHC).*

## **5. REPORTS**

- 8.1.** Chief of Staff – Report relative to current Medical Staff events and issues.  
*Byron Mendenhall, MD, Chief of Staff*
- 8.2.** Chief Executive Officer Report -Report relative to current events and issues.  
*Gary Herbst, Chief Executive Officer*
- 8.3.** Board President - Report relative to current events and issues.  
*Nevin House, Board President*

## **ADJOURN**

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate at this meeting, please contact the Board Clerk (559) 624-2330. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Kaweah Delta Health Care District Board of Directors meeting.*



## Health Center Liaison Committee

Date: 3/23/2020

RE: Co-Applicant Agreement – Revision

Members: Carol Cairns, Dr. Mandeep Bagga, Doug Leeper, Dianne Cox, Luke Schneider

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### Executive Summary of Recommended Revisions

#### Background:

Revisions to the Co-Applicant Agreement are necessary to respond to HRSA’s feedback from our Look-alike FQHC application.

#### Specific HRSA Feedback and Recommended Revisions:

*“Co-Applicant Agreement indicates the presence of a Health Center Liaison Committee, consisting of unequal representation between the Health Center Board and the District. Given the Project Narrative, the Bylaws, and the Board Meeting Minutes, it is unclear how the Health Center Board is operating their full authority over the Health Center Program.”*

#### Recommended Revision (Section G. pages 10-11):

HRSA’s FQHC Compliance manual does not require a Health Center Liaison Committee (HCLC). When evaluating the co-applicant agreements of other public entity co-applicant FQHC’s, HCLC’s are not mentioned. It is recommendation of our consultants to simplify the co-applicant agreement by simply excluding the HCLC altogether. This does not prevent the SHWC or KDHC board of directors from exercising their right of creating an ad hoc committee with representatives to discuss issues as they arise in accordance to respective by-laws.

#### Specific HRSA Feedback and Recommended Revisions:

*“Co-Applicant Agreement indicates that while the Health Center board may vote to remove the CEO, the final employment determination is made in accordance with the terms of any relevant employment agreement applicable to the District’s employment of the CEO. As such, it is unclear how the Health Center board holds the ultimate authority over dismissal or termination of the CEO from the Health Center Program project.”*

#### Recommended Revision (Section E.3. page 6):

Clarified the Board’s sole authority to remove CEO

#### Specific HRSA Feedback and Recommended Revisions:

*“Co-Applicant Agreement indicates that the initial voting members of the Health Center board shall be nominated and appointed by the District. The Health Center Program Compliance Manual indicates that this board member selection and removal process does not permit any other entity, committee or individual (other than the board) to select either the board chair or the majority of health center board members, including a majority of the non-patient board members.”*

#### Recommended Revisions:

Section B. page 2 - Clarifying SHWC is not owned/controlled by KDHC

Section A. page 3 – Clarifying SHWC is not owned/controlled by KDHC

Section B.4. page 3 – Clarifying patient board members meet HRSA compliance

Section B.8. page 4– Initial board members were appointed by the incorporator – Mary Norvel, J.D. our legal counsel

**CO-APPLICANT AGREEMENT**

**By and Between**

**SEQUOIA HEALTH AND WELLNESS CENTERS,  
A California Nonprofit Public Benefit Corporation  
and  
KAWEAH DELTA HEALTH CARE DISTRICT,  
A California Health Care District**

**Original Date: April 3<sup>rd</sup>, 2019**

**Revision Date: March 17<sup>th</sup>, 2020**

## CO-APPLICANT AGREEMENT

THIS CO-APPLICANT AGREEMENT (the "**Agreement**") is entered into as of April 3, 2019 (the "**Effective Date**"), by and between KAWEAH DELTA HEALTH CARE DISTRICT, a California health care district ("**District**") and SEQUOIA HEALTH AND WELLNESS CENTERS, a California nonprofit, public benefit corporation ("**Sequoia**"). District and Sequoia shall be collectively referred to herein as the "Parties" and individually as a "Party". This Agreement is made with reference to the following facts:

### RECITALS

A. "Kaweah Delta Health Care District" is a California health care district formed under The Local Health Care District Law as set forth in Section 32000, et seq., of the California Health & Safety Code ("**District Law**"), and that has its principal place of business at 400 W. Mineral King Avenue, Visalia, California 93291; and

B. "Sequoia Health and Wellness Centers" is a California nonprofit public benefit corporation, ~~that was established by the District, and that~~ has its administrative office at principal place of business at 202 W. Willow Ave, Suite 502, Visalia, CA 93291; and

C. The United States Department of Health and Human Services' Health Resources and Services Administration ("**HRSA**") administers the Health Center program established under Section 330 of the Public Health Services Act ("**Section 330**"), in addition to certifying Federally Qualified Health Centers ("**FQHCs**") as described in in 42 U.S.C. §§ 1395x(aa)(4) and 1396d(l)(2)(B) of the Medicare and Medicaid programs, respectively; and

D. District believes that it can better address the health care needs of the medically underserved through its participation in the Section 330 program with respect to certain health center sites (collectively referred to as "**Health Center**"), and that the District's participation in the Section 330 program requires it to comply with the statutes, regulations and policies administered by HRSA including but not limited to 42 U.S.C. § 254b, 42 C.F.R. §§ 51c.101 – 51c.507, 2 C.F.R. Part 200, 45 C.F.R. Part 75, the HRSA "Health Center Program Compliance Manual" (Rev. 8/20/18), and the United States Department of Health and Human Services ("**DHHS**") "HHS Grants Policy Statement" ("**Applicable Law**"); and

E. District is authorized under the Local Health Care District Law to, among other things, establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities at any location within or without the District for the benefit of the District and the people served by the District.

F. In order to establish a user-majority governing board that is representative of the patient population being served by the Health Center and which assumes specified responsibility as to the Health Center, consistent with Applicable Law, the Parties wish to enter into a co-applicant arrangement identifying the roles and responsibilities of District and Sequoia, and to further describe areas of shared responsibility; and

G. For the mutual benefit of the Parties and the residents of the Health Center's service area, Sequoia and the District wish to enter an agreement setting forth their rights and obligations with respect to the co-applicant board, consistent with HRSA requirements.

NOW, THEREFORE, the District and Sequoia agree as follows:

**A. Establishment of Co-Applicant Board.**

This Co-Applicant agreement is required by HRSA, and is intended by the Parties, to describe the delegation of authority and define roles, responsibilities, and authorities, including any shared roles and responsibilities in carrying out applicable governance functions relating to the Health Center. ~~The District has incorporated Sequoia as a California~~ nonprofit, public benefit corporation ~~for purposes of Sequoia's operation of which will operate~~ the Health Center as a Co-Applicant, as that term is utilized by HRSA in connection with its administration of the Section 330 health center program, in accordance with the terms of this Agreement.

**B. Sequoia's Health Center Board Composition.**

1. Sequoia's health center governing board ("**Health Center Board**") shall consist of at least 9 and no more than 25 members. The specific number shall be set forth in Sequoia's corporate bylaws ("**Bylaws**").
2. The majority (at least 51 percent) of the Health Center Board members must be patients served by the health center. These health center patient board members must, as a group, represent the individuals who are served by the health center in terms of demographic factors, such as race, ethnicity, and gender. To the extent that the Health Center has filed a HRSA Uniform Data System ("**UDS**") report, the demographic factors shall be consistent with those set forth in the UDS report.
3. A "patient" of the Health Center shall be as such term is defined by HRSA. The term "patient" is currently defined by HRSA as an individual who has received at least one service in the past 24 months from the Health Center that generated a Health Center visit, where both the service and the site where the service was received are within the HRSA-approved scope of project. A legal guardian of a patient who is a dependent child or adult, a person who has legal authority to make health care decisions on behalf of a patient, or a legal sponsor of an immigrant patient may also be considered a patient of the health center for purposes of Health Center Board representation.
4. The initial patient-~~appointees to the~~ Health Center Board members shall be patients meeting ~~this the foregoing~~ definition as to services and sites for which HRSA approval is being sought. Non-patient Health Center Board members must be representative of the community served by the ~~h~~Health ~~e~~Center and must be selected for their expertise in relevant subject areas, such as community affairs, local government, finance and banking, legal affairs, trade unions, and other commercial and industrial concerns, or social service agencies within the community.
5. Of the non-patient Health Center Board members, no more than one-half may derive more than 10 percent of their annual income from the health care industry. The Health Center Board shall determine, within its policies, how to define "health care industry" for purposes of board composition and how to



determine the percentage of annual income of each non-patient board member derived from the health care industry.

6. A Health Center Board member may not be an employee of Sequoia or the District, or spouse or child, parent, brother or sister by blood, adoption or marriage of such an employee. An "employee" shall include an individual who would be considered a "common-law employee" or "statutory employee" according to the Internal Revenue Service criteria, as well as an individual who would be considered an employee for state or local law purposes.
7. The Project Director, as such term is utilized in the Applicable Law, shall be the Chief Executive Officer ("CEO"); the CEO or his/her designee shall serve as a non-voting, ex-officio member of the Health Center Board.
8. The initial voting members of the Health Center Board ~~shall be~~ nominated and appointed by the District in accordance with California law and the Bylaws. Upon the expiration of the initial term of such directors, or earlier resignation, termination or removal from the Health Center Board, voting members shall be nominated and approved in accordance with ~~the~~ California law and the Bylaws.
9. The Bylaws shall prescribe the process for selection and removal of all Health Center Board members. This selection process shall ensure that the Health Center Board is representative of the ~~Health Center's~~ Health Center's patient population as described above and consistent with the Applicable Law.

### **C. Sequoia's Health Center Board's Authority and Obligations.**

As described in the Bylaws, the Health Center Board provides community-based governance and oversight of the District's Health Center, and shall have authority and responsibility for the following activities:

1. Frequency of Board Meetings: The Health Center Board shall hold meetings no less frequently than once per month and shall ensure that a quorum is present to ensure the Board has the ability to exercise its required authorities and functions.
2. Chief Executive Officer. The Health Center Board shall have final authority to select, approve, remove, and evaluate Sequoia's CEO, as described in Sections D and E(2) – E(3) of this Agreement;
3. Adoption of Policies. The Health Center Board shall establish or adopt policies for Sequoia's conduct of its participation in the Section 330 program ("**Project**") and shall update these policies when needed. These policies shall include: (i) hours of operation; (ii) health care services provided; (iii) quality-of-care audit procedures; (iv) credentialing and privileging of licensed and certified Project staff; (v) patient satisfaction evaluation and grievance resolution; (vi) sliding fee scale; (vii) Billing and Collections; (viii) Contracting and Purchasing; (ix) in the event of relocation or redevelopment of the physical plant, the locations of the Health Center sites; and (x) any other policy required by HRSA.
4. Approval of the Annual Budgets. The Health Center Board shall approve, and evaluate at least once every three years, and more frequently as needed, approved updates to policies that support financial management, accounting systems and personnel policies of Sequoia. However, the District shall have and retain the authority to adopt and approve such policies. The Health Center Board shall have final authority to approve Sequoia's annual operating and



capital budget, which shall be prepared by the CEO and shall be preliminarily approved by the District.

5. Financial Management Protocol. Subject to, and consistent with Sections C(3) and C(4) of this Agreement, the Health Center Board shall consult with the District in establishing a written protocol regarding the adoption and periodic updating of policies for the financial management practices of the Project (including a system to assure accountability for the Project's resources, provision of an annual audit, long-range financial planning, billing and collection policies, and accounting procedures).
6. Evaluation of the Project's Activities and Achievements. On at least an annual basis, the Health Center Board, in conjunction with the District, shall conduct an evaluation of Sequoia's activities and achievements and recommend, as necessary, revision of Sequoia's goals, objectives and strategic plan with respect to the Project.
7. Approval of Applications. The Health Center Board, in conjunction with the District, shall approve applications for annual FQHC recertification, annual Section 330 grants (as applicable), and other grant funds for the Project.
8. Compliance. The Health Center Board, in conjunction with the District, shall assure the Project's compliance with applicable federal, state and local laws, regulations and policies. The District shall provide the Health Center Board with periodic reports regarding the Health Center's legal and regulatory compliance program. On at least an annual basis, the Health Center Board shall evaluate the Project's compliance activities and recommend, as necessary, the revision, restructuring, or updating of the compliance program by the District.
9. Quality Management. The Health Center Board shall evaluate the quality management programs developed and recommended by Sequoia's staff and approved by the District in accordance with Section F(5)(e). The Health Center Board shall be integrated into the District's quality management activities related to the Project and shall review and approve the Project's annual Quality Improvement Plan, including audits and state quality management reporting requirements. Quality management reports shall be shared on a quarterly basis between the Health Center Board and the District representatives responsible for quality management matters at the Project.
10. Evaluation of the Health Center Board. On at least an annual basis, the Health Center Board shall evaluate its compliance with the governance requirements and report its findings and any recommendations for corrective action to the District. Also, on at least an annual basis, the Health Center Board shall evaluate itself and its actions for effectiveness, efficiency and compliance with the authorities set forth in this Agreement consistent with the requirements of Section 330.

**D. Duties and Evaluation of the Chief Executive Officer.**

1. Chief Executive Officer. The CEO shall be an employee of the District and shall, on behalf of the District, coordinate with the Health Center Board to meet the obligations under this Agreement.
2. Duties. The CEO shall have responsibility for the general care, management, supervision, and direction of the Project's affairs, consistent with the priorities and

policies established by the Health Center Board and by HRSA, with respect to the obligations of a Project Officer. The CEO shall report directly to the Health Center Board and shall act in accordance with the best interests of Sequoia, regardless of and notwithstanding any employment arrangement between the CEO and the District. The CEO shall have the authority to select, supervise, and discharge all Project personnel in accordance with the laws, collective bargaining agreements, if any, and personnel policies applicable to the District and/or Sequoia (as reviewed and approved by the Health Center Board in accordance with Section C(3)). The CEO shall also have the authority to monitor and coordinate all contracts for goods and services as required for the operation of the Project, subject to the laws and policies applicable to the District's and Sequoia's procurement and purchasing, the budget approved by the Health Center Board for the Project, and the laws and policies applicable to the District's and Sequoia's administration of contracts.

3. Evaluation. The Health Center Board shall review the CEO's performance annually based on performance evaluation criteria approved by the Health Center Board. The review shall be coordinated and conducted by a subcommittee of the Health Center Board. The report of the annual review shall be submitted to the full Health Center Board, and to the District.

**E. Selection, Approval, and Removal of Chief Executive Officer.**

1. Recruitment of Chief Executive Officer.

- a. In the event of a vacancy in the office of the CEO, including any vacancy arising from the expiration or other termination of District's employment arrangement with the CEO, the District may present the Health Center Board with qualified employees or contractors from the District that are already employed by the District at the time the CEO position becomes available; and/or
- b. A search outside of the District may be conducted for a CEO according to the District's personnel policies.
- c. If the District conducts interviews, at least one representative of the Health Center Board must participate in the preliminary interviews and evaluation of candidates for the CEO's position in accordance with the District's personnel policies and procedures.

2. Selection and Approval. The Health Center Board shall have sole authority to select and approve the CEO from the qualified candidates presented by the District at the conclusion of the search process.

3. Removal. ~~The Health Center Board shall have sole authority to remove the CEO. Any recommendation for the removal of the CEO shall be presented to the full Health Center Board for approval. Such removal of the CEO shall not constitute a termination of employment or preclude their/his/her continued employment by the District constitute a termination of employment by the District in a capacity other than Project Director/CEO offer the Health Center. Any removal of the CEO shall be determined solely in accordance with the terms of any relevant employment agreement and/or policies applicable to District's employment of the CEO.~~

**F. Role of the District**

1. The District as a Public Agency. In accordance with federal requirements, the District and Sequoia, recognize that the District as a public agency is constrained by law in the delegation of certain government functions to other entities, and is permitted to retain authority over general policies. Therefore, the District as a public agency with an approved co-applicant board arrangement does not need further justification to retain authority for the establishment of the following types of general policies:
  - a. Fiscal Policies.
    - i. Internal control procedures to ensure sound financial management procedures.
    - ii. Purchasing policies and standards.
  - b. Personnel Policies.
    - i. Employee selection, performance review/evaluations, and dismissal procedures.
    - ii. Employee compensation, including wage and salary scales and benefit packages.
    - iii. Position descriptions and classification.
    - iv. Employee grievance procedures.
    - v. Equal opportunity practices.
2. Notwithstanding the terms of this Agreement or the Bylaws of Sequoia and subject to the authorities shared with the Health Center, neither Party shall take any action inconsistent with the District's authority to manage:
  - a. Fiscal Controls.
    - i. The District shall develop and shall provide preliminary recommendations for the annual operating and capital budgets of Sequoia. The District shall recommend such budgets to the Health Center Board for review and final approval. In the event that the Health Center Board does not approve the recommended budget, the District and the Health Center Board shall meet and confer to develop an appropriate budget that is satisfactory to both. If the District and the Health Center Board fail to develop a mutually agreed upon budget within thirty (30) days of the initial review, then the dispute shall be resolved in accordance with Section J(5) below. Subject to the requirements for adoption and approval of a public agency budget, the Health Center Board shall have final authority to approve the annual operating and capital budgets of the Health Center.
    - ii. The District shall spend funds that are consistent with Sequoia's approved budget. The Parties shall not materially deviate from the adopted budget except that the District, as manager of the Health Center, may modify planned fiscal activities if there is a reduction in available resources (e.g., decreased levels of reimbursement, diminished revenues, or adverse labor events). The District shall immediately notify the Health Center Board of any budgetary change that would materially modify the scope of the Project, and

shall seek the necessary approvals of such changes.

- iii. The District shall be solely responsible for the management of the financial affairs of Sequoia, including capital and operational borrowing.
  - iv. The District shall have sole authority to develop and implement financial policies and controls related to Sequoia, in consultation with it, as set forth in this Agreement.
  - v. All funds received for services provided and all income otherwise generated by Sequoia, including fees, premiums, third-party reimbursements and other state and local operational funding, and Section 330 grant funds ("Project Income"), as well as all Project Income greater than the amount budgeted ("Excess Project Income"), shall be under the control of the District. All Project Income and Excess Project Income shall be used to further the goals of the federally approved Project and consistent with the policies and priorities established by the Health Center Board.
  - vi. The District shall have sole authority to receive, manage, allocate, and disburse, as applicable, revenues necessary for the operation of the Health Center, consistent with this Agreement.
3. Funding From Governmental and Charitable Sources. Neither Party shall take any action that would negatively impact the District's funding from federal, state, or local sources or financial support from foundations or other charitable organizations.

4. Employer-Employee Relations.

Subject to the limitation of Section C(2) of this Agreement regarding the selection, evaluation, approval and removal of Sequoia's CEO, the District shall have sole authority over employment matters and development and approval of personnel policies and procedures, including but not limited to, the selection, discipline and dismissal, salary and benefit scales, employee grievance procedures and processes, equal employment opportunity practices, collective bargaining agreements, labor disputes and other labor and human resources issues, as well as agreements for the provision of staff who are employees of other agencies or organizations. Consistent with this Agreement, the Health Center shall ratify and adopt the personnel policies and procedures developed and approved by the District.

5. Operational Responsibilities. Subject to the governance responsibilities exercised by the Health Center Board, and Sequoia's CEO, the District shall conduct the day-to-day operations of the Health Center. Such operational responsibilities shall include but not be limited to:
- a. Applying for and maintaining all licenses, permits, certifications, accreditations and approvals necessary for the operation of the Health Center.
  - b. Credentialing and privileging of providers.

- c. Receiving, managing, and disbursing, as applicable, revenues of the Health Center consistent with the approved budget for the Health Center. The District shall not be required to disburse funds for any expenditure not authorized by the approved budget.
- d. Subject to the limitations set forth in this Agreement, employing or contracting personnel to perform all clinical, managerial, and administrative services necessary to assure the provision of high-quality healthcare services to the Health Center's patients.
- e. Establishing ongoing quality management programs that include clinical services and management, are overseen by Sequoia's medical director(s), and maintaining the confidentiality of records, per 42 U.S.C. § 254b(k)(3)(C) and 42 C.F.R. § 51c.303(c)(1)-(2).
- f. Subject to the limitations set forth in this Agreement, managing and evaluating all Health Center staff and, if necessary, disciplining, terminating or removing such staff pursuant to the District's personnel policies and processes.
- g. Preparing and submitting cost reports, supporting data, and other materials required in connection with reimbursement under Medicare, Medicaid, and other third-party payment contracts and programs.
- h. Providing for the annual audit of the Health Center, which shall be undertaken in consultation with the Health Center in accordance with this Agreement, consistent with the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 C.F.R. Part 75), to determine, at a minimum, the fiscal integrity of financial transactions and reports and compliance with Section 330 requirements and the fiscal policies of the District. The Health Center Board shall review and accept the annual health center audit, and shall ensure that any appropriate follow-up actions are taken.
- i. Preparing monthly financial reports, which shall be submitted to the Health Center Board, and managing financial matters related to the operation of the Health Center.
- j. Developing and managing internal control systems, in consultation with the Health Center Board as set forth in this Agreement (as applicable), in accordance with sound management procedures and Section 330 that provide for:
  - i. eligibility determinations;
  - ii. development, preparation, and safekeeping of records and books of account relating to the business and financial affairs of the Health Center;
  - iii. separate maintenance of the Health Center's business and financial records from other records related to the finances of the District so as to ensure that funds of the Health Center may be properly allocated;
  - iv. accounting procedures and financial controls in accordance with generally accepted accounting principles;

- v. billing and collection of payments for services rendered to individuals who are: (1) eligible for federal, state or local public assistance; (2) eligible for payment by private third-party payors and (3) underinsured or uninsured and whose earnings fit the low-income criteria;
- vi. compliance with the terms and conditions of the Section 330 Grantee designation, as applicable.
- vii. Unless otherwise stated in this Agreement, establishment of the Health Center's operational, management, and patient care policies.
- viii. Establishing ongoing quality improvement and compliance programs.
- ix. Ensuring the effective and efficient operation of the Health Center.
- k. Provide patient support services including language assistance, defined as the timely availability of professional translation (written) and interpretation (oral) services (e.g., access to bilingual providers, onsite interpreters, language telephone line) as well as auxiliary aids based on the primary language(s) spoken by a substantial number of individuals in the health center's target population and service area. These services will be provided through the employment of competent bilingual staff, staff interpreters, contracts or formal arrangements with local organizations providing interpretation or translation services, and telephonic interpretation services.

**G. — Health Center Liaison Committee**

- ~~1. Duties. The Health Center Liaison Committee (“**HCLC**”) shall be an advisory committee which shall meet as needed by the parties to facilitate the cooperative relationship between the District and Sequoia as joint operators of the Health Center, and shall provide a mechanism to further the Parties' common goal of providing quality health care services, and to ensure allocation of authorities in a manner consistent with the Applicable Law. Subject to Sections C and F of this Agreement, the duties of the HCLC shall include but not be limited to:~~
- ~~a. Developing and recommending to the District the Health Center's policies regarding fees, sliding scale fee eligibility, and the privileging and credentialing of licensed health care professionals;~~
  - ~~b. Developing and recommending criteria for removal of the CEO in accordance with Section E of this Agreement; and~~
  - ~~c. Reviewing and making recommendations to the Health Center Board regarding approval of applications for annual FQHC Look-Alike recertification, annual Section 330 grants (as applicable), and other grant funds for the Health Center.~~
  - ~~d. Under no event may the HCLC supersede any of the Health Center Board's authorities, as described in Section C or as otherwise required to be exercised exclusively by the Health Center Board under the Applicable Law.~~

~~2. Composition. The Liaison Committee shall be comprised of two (2) representatives of the Health Center Board and three (3) representatives of District. In the event that a representative of either Party is unable to attend a HCLC Committee meeting, or is disqualified by virtue of a personal interest, the respective Party will be required to nominate a suitable replacement who will be vested with full voting rights. Any impasse in decision-making shall be resolved by dispute resolution and mediation, in accordance with Section J(5).~~

#### H.G. Mutual Obligations

1. Compliance with Laws and Regulations. The Parties shall have a mutual commitment and responsibility to work together to ensure that Sequoia provides care in compliance with all applicable federal, state and local laws, policies and regulations.
2. Financial Responsibility. Each Party agrees not to undertake expenditures in excess of the authorized budget and the available resources and to recognize the District's responsibility with respect to the Fiscal Controls and related financial matters described in this Agreement.
3. Expenses of Parties. The expenses of the District and Sequoia incurred in carrying out its respective obligations for governance and operation of the Project pursuant to this Agreement shall be considered expenses incurred on behalf of Sequoia in furtherance of the Project and thus shall be reimbursed in accordance with applicable program requirements and the fiscal policies of the District.
4. Record Keeping and Reporting.
  - a. Record Keeping. Each Party shall maintain records, reports, supporting documents and all other relevant books, papers and other documents to enable the Parties to meet all Section 330-related reporting requirements. Records shall be maintained for a period of ten (10) years from the date this Agreement expires or is terminated, unless state and/or federal law requires that records be maintained for a period greater than the ten (10) year period specified herein ("the Retention Period"). If an audit, litigation, or other action involving the records is started before the end of the retention period, the Parties agree to maintain the records until the end of the Retention Period or until the audit, litigation, or other action is completed, whichever is later. The Parties shall make available to each other, DHHS and the Comptroller General of the United States, the California Department of Health Care Services, the Office of the Comptroller of the State of California or any of their duly authorized representatives, upon appropriate notice, such records, reports, books, documents, and papers as may be necessary for audit, examination, excerpt, transcription, and copy purposes, for as long as such records, reports, books, documents, and papers are retained. This right also includes timely and reasonable access to each Party's personnel for purposes of interview and discussion related to such documents.
  - b. Confidentiality. Subject to the District's obligations, if any, to make public its records in accordance with applicable law, the Parties agree that all information, records, data, and data elements collected and maintained for the administration of this Agreement (in any form, including, but not



limited to; written, oral, or contained on video tapes, audio tapes, computer diskettes or other storage devices) shall be treated as confidential and proprietary information. Accordingly, each Party shall take all reasonable precautions to protect such information from unauthorized disclosure; however, nothing contained herein shall be construed to prohibit any authorized Federal or other appropriate official from obtaining, reviewing, and auditing any information, record, data, and data element to which he/she is lawfully entitled. The Parties (and their directors, officers, employees, agents, and contractors) shall maintain the privacy and confidentiality of all protected health information ("PHI") of the patients receiving care provided by the Health Center, in accordance with all applicable state and federal laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act ("**HIPAA**") and the California Confidentiality of Medical Information Act ("**CMIA**").

- c. Medical Records. The Parties agree that the District, as the operator of the Health Center, shall retain ownership of medical records established and maintained relating to diagnosis and treatment of patients served by the Health Center.
- d. Insurance. The District shall maintain Professional Liability Insurance, Workers' Compensation Insurance, and General Liability and Property Damage Insurance and/or self-insurance to cover Health Center activities. Such insurance may include deemed coverage under the Federal Tort Claims Act (42 U.S.C. § 233) to the extent applicable. This Section shall survive the termination of this Agreement without regard to the cause for termination.
- e. Ownership of Property Acquired with Grant Funds. The provisions of 45 C.F.R. § 75.316, et seq., apply to tangible property acquired under this Agreement. The Parties agree that the District shall be the titleholder to all property purchased with grant funds as the non-Federal entity, within the meaning of 45 C.F.R. § 75.2.
- f. Copyrightable Material. Consistent with the requirements and limitations described in 45 C.F.R. 75.322, District shall have a copyright for any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The HHS awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

#### I.H. Governing Law.

- 1. Applicable Laws, Regulations, and Policies. This Agreement shall be governed and construed in accordance with applicable Federal laws, regulations, and policies, including but not limited to the Applicable Law, as defined herein. In addition, each Party covenants to comply with all applicable laws, regulations, ordinances, and policies of the State of California and all local governments in the performance of the Agreement, including all licensing standards and applicable accreditation standards, if any.
- 2. New HRSA Directives. Sequoia's CEO shall submit promptly to each Party any

directives or policies that are received from HRSA after execution of this Agreement and are pertinent to applicable Section 330 grants, and the Parties shall comply with such additional directives/policies, as they become applicable.

3. Non-Discrimination. By signing this Agreement, Sequoia agrees to comply with the District's Equal Employment Opportunity Non-Discrimination Policy and all related personnel policies as well as all related federal requirements, including but not limited to those specified in 2 C.F.R. Part 200, Appendix II.
4. Term. This Agreement shall commence upon execution by the Parties, and shall remain in effect while either (i) one or more of the Health Center sites have been qualified by HRSA as an FQHC; or (2) the District has received a Section 330 grant award, where in either circumstance, Sequoia is the District's Co-Applicant, unless termination occurs at an earlier date in accordance with the terms of Section J of this Agreement.

#### J.I. Termination.

1. Reporting. Termination of this Agreement will be reported to HRSA within ten (10) days, or such earlier time as required by the Applicable Law. The Parties shall collaborate to minimize any risk that a termination under this Section will negatively impact either Party's compliance with the requirements of Section 330 or the FQHC status of any Health Center site.
2. For Cause Termination. Either Party may terminate this Agreement "for cause" in the event that the other Party fails to meet its material obligations under this Agreement. Such "for cause" termination shall require ninety (90) days' prior written notice of intent to terminate during which period the Party that has allegedly failed to meet its material obligations may cure such failure or demonstrate that no such failure has occurred. Any dispute between the Parties regarding whether a breach of a material obligation has occurred, or that such a breach has been satisfactorily cured, will be resolved in accordance with this Agreement.
3. Termination by Mutual Agreement. This Agreement may be terminated upon the mutual approval of the Parties in writing provided there is HRSA approval to terminate.
4. Termination Contingent upon HRSA Approval. With the exception of a termination for cause arising from the voluntary or involuntary loss of one or more Health Center site's FQHC designation (or its Section 330 grant), either Party may terminate this agreement on one hundred twenty (120) days' prior written notice; however, such termination shall not become effective unless and until HRSA issues its written approval of such termination.
5. Dispute Resolution and Mediation. The Parties shall first attempt to resolve any dispute or impasse in decision-making arising under or relating to this Agreement by informal discussions between the District, the Chairperson of the governing board of Sequoia and the CEO. Any dispute or impasse not resolved within a reasonable time following such discussions (not to exceed thirty (30) days) shall be submitted to mediation by an experienced mediator, acceptable to both parties, who is on the panel of mediators for the Tulare County Superior Court. If the Parties are unable to resolve the dispute through mediation, either Party may pursue any remedy available at law.

**K.J. General Provisions.**

1. Notices. All notices permitted or required by this Agreement shall be deemed given when made in writing and delivered personally, sent by email, or deposited in the United States Mail, first class postage prepaid, Certified and Return Receipt Requested, addressed to the other Party at the appropriate address set forth below or such other addresses as the Party may designate in writing:

For Health Center: Chief Executive Officer  
202 W. Willow Ave., Suite 502  
Visalia, CA 93291

For the District: Chief Executive Officer  
400 West Mineral King Avenue  
Visalia, CA 93291

2. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement, binding on both of the Parties hereto.
3. Time is of the Essence. Time is of the essence for each provision of this Agreement and each performance called for in this Agreement.
4. Entire Agreement. This Agreement, the Exhibits and Schedules, if any, and the documents referred to herein contain the entire understanding between the Parties with respect to the transactions contemplated hereby and supersede all prior contemporaneous agreements, understandings, representations and statements, oral or written between the Parties on the subject matter hereof, which shall be of no further force or effect.
5. Headings. The section and other headings contained in this Agreement and in the Exhibits and Schedules to this Agreement, if any, are included for the purpose of convenient reference only and shall not restrict, amplify, modify or otherwise affect in any way the meaning or interpretation of this Agreement or the Exhibits and Schedules hereto.
6. No Waiver. Any term, covenant or condition of this Agreement may be waived at any time by the Party which is entitled to the benefit thereof but only by a written notice signed by the Party waiving such term or condition. The subsequent acceptance of performance hereunder by a Party shall not be deemed to be a waiver of any preceding breach by the other Party of any term, covenant or condition of this Agreement, other than the failure of such Party to perform the particular duties so accepted, regardless of such Party's knowledge of such preceding breach at the time of acceptance of such performance. The waiver of any term, covenant or condition shall not be construed as a waiver of any other term, covenant or condition of this Agreement. The rights and remedies set forth in this Agreement shall be in addition to any other rights or remedies that may be granted by law.
7. Amendment of Agreement. This Agreement may not be amended, supplemented or modified except by a written instrument duly executed by

District and Sequoia.

8. Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any Party or circumstance shall be held to be invalid or unenforceable to any extent in any jurisdiction, then the remainder of this Agreement and the application of such term, provision, condition or covenant in any other jurisdiction or to persons or circumstances other than those as to whom or which it is held to be invalid or unenforceable, shall not be affected thereby, and each term, provision, condition and covenant of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
9. Exhibits and Schedules. The Exhibits and Schedules attached to this Agreement, if any, shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.
10. Fair Meaning. This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto.
11. Rules of Construction. Except as otherwise specifically provided in this Agreement, the singular of any term shall include the plural, and vice versa, the use of any term shall be equally applicable to any gender, “or” shall not be exclusive, and “including” shall not be limiting. The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to this Agreement as a whole, including any Exhibits and Schedules hereto, as the same may from time to time be amended, modified or supplemented, and not to any particular section, subsection or clause contained in this Agreement. Any reference to a “Section,” “Exhibit,” or “Schedule” shall refer to the relevant Section of, or Exhibit or Schedule to, this Agreement, unless specifically indicated to the contrary.
12. No Third-Party Beneficiary. None of the provisions herein contained are intended by the Parties, nor shall they be deemed, to confer any benefit on any person not a Party to this Agreement.
13. Anti-Kickback Laws. Nothing in this agreement or in any other written or oral agreement between District and Sequoia, nor any consideration offered or paid in connection with this agreement, contemplates or requires the admission or referral of any patient to District or Sequoia.
14. Changes in Laws. In the event there are any material changes in federal, state or local laws, rules or regulations or the interpretation or application thereof, including the laws, rules or regulations applicable to Medicare, Medi-Cal, FQHCs or other governmental health care programs, which may have a material impact on the performance of this Agreement, District or Sequoia may elect to renegotiate this Agreement by giving written notice thereof to the other. In any case where such notice is provided, both Parties shall negotiate in good faith during the thirty (30)-day period after the date of the written notice in an effort to develop a revised Agreement, which, to the extent reasonably practicable, will adequately protect the interests of both Parties in light of the changes which constituted the basis for the exercise of this provision.
15. Public Health Service Act. Sequoia and District understand and acknowledge that to the extent that Health Center is qualified by HRSA as an FQHC, it shall be subject to the provisions of Section 330 of the Public Health Service Act and implementing regulations, and any provision required to be in this Agreement by either of the above shall bind the Parties whether or not provided in this

Agreement. Nothing in this Agreement shall prohibit or interfere with requirements imposed upon District and Sequoia by the Public Health Service Act and regulations. Notwithstanding the foregoing, if any such requirements materially affect the financial and other understandings between the Parties as set forth in this Agreement, the Parties shall attempt in good faith to amend this Agreement to give effect to the Parties' intentions and if no suitable compromise can be reached, either Party may terminate this Agreement for cause pursuant to Section J(2).

IN WITNESS WHEREOF, the Parties hereto have executed this Co-Applicant Agreement as of the date first above written.

KAWEAH DELTA HEALTH CARE DISTRICT, A  
California Health Care District

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Address: 400 W. Mineral King Ave.  
Visalia, CA 93291

SEQUOIA HEALTH AND WELLNESS CENTERS, A  
California Nonprofit Public Benefit Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Address: 202 W. Willow Ave., Suite 502  
Visalia, CA 93291