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MEMORANDUM

TO: Bay Medical Center Board of Trustees and
Steve Johnson, President/CEO

FROM: Robert C. Jackson

DATE: February 2, 2012

RE: Executive Summary

Executive Summary of Proposed Asset Purchase Agreement

The transaction to lease Bay Medical Center to a joint venture between LHP and Sacred Heart (the JV) has two critical components: (i) the Lease Agreement (Lease), and (ii) the Asset Purchase Agreement (APA). The Lease Agreement leases all of the District's Real Property and contains the continuous obligation of the parties. The APA sells substantially all of the other District assets and contains the closing and indemnification provisions. Here is a summary of the major terms in the APA.

- **Transfer of Assets.** In general, all of the Districts assets of any type or kind (except real property) are transferred to JV at closing. Exceptions are listed as Excluded Assets on a schedule, including all cash, restricted or donated funds, employee benefit plans, self-insurance trust funds, and any remaining BP Oil Claim proceeds.
- **Assumption of Liabilities.** Generally, the JV assumes all of the existing District liabilities that accrue after the closing date (including all contracts and leases), and the District keeps all that accrued before the closing date. Exceptions are listed as Excluded Liabilities on a schedule and include medical malpractice or other liability claims accruing before closing, and the benefit and pension plan liabilities.

BMC – APA Executive Summary
February 2, 2012

- Price. The total transaction payment is \$154,000,000, paid at closing, approximately 80% cash and 20% in 3-month bridge note. The portion of the total transaction payment allocated to the APA is \$30,800,000 in which will be paid in the form of a 3 month promissory note at closing at a commercially reasonable interest rate. There is no requirement to fund the escrow account until all the cash is received. There is an adjustment for net working capital at closing.
- Real Property. Real Property is excluded from the asset sale, but the District will transfer a leasehold interest in the property to the JV at closing (subject to the conditions in the Lease). The District will provide a leasehold title commitment.
- Representations and Warranties. These are specific warranties and representations by the District and the JV. The goal is full disclosure of important matters that may affect Hospital operations by both sides.
- Employee Matters. At closing, the District shall terminate all its employees and LHP shall hire all of the employees at the same position and salary. LHP shall provide benefits to these employees in the same manner as other LHP hospital employees and give credit for prior service to District where it can.
- Indemnification. Generally, the District is responsible for claims that accrue before closing. The JV is responsible for claims that accrue after closing. The District agrees to reserve \$15,400,000 of the transaction payment in escrow to indemnify the JV for claims that accrue prior to closing. The \$15,400,000 is a hard cap and the total extent of the District's liability for indemnification under the Lease. An escrow agent (typically a bank) will hold the escrow funds in a separate account. Unused escrow funds are returned to the District over time (\$11,550,000 minimum balance at the end of 3rd year, \$7,700,000 minimum balance at the end of the 4th year, \$3,850,000, minimal balance at the end of the 5th year). At the end of the sixth year, any remaining escrow funds are returned to the District. Even though the balance is stepped down, the entire indemnification amount is at risk.
- Direct Disbursements. The JV can make request direct disbursements from the escrow funds when a third party payor withholds payment on a payment claim that the District is liable for pre-closing. The District would get notice of such disbursements and have the opportunity to file an appeal with the payor (ex. Medicare overpayments).