



EL CENTRO REGIONAL MEDICAL CENTER
BOARD OF TRUSTEES – SPECIAL MEETING

THURSDAY, APRIL 11, 2024
4:00 PM

CITY OF EL CENTRO
1275 W. MAIN STREET, CITY HALL
EL CENTRO, CA

PRESIDENT: Tomas Oliva

MEMBERS: Sylvia Marroquin; Martha Cardenas-Singh; Edgard Garcia; Sonia Carter; Patty Maysent-CEO, UCSD Health; Christian Tomaszewski-M.D.-CMO, UCSD; Pablo Velez-CEO ECRMC

CLERK: Belen Gonzalez

ATTORNEY: Douglas Habig, ECRMC Attorney
Elizabeth Martyn, City Attorney

This is a public meeting. If you are attending in person, and there is an item on the agenda on which you wish to be heard, please come forward to the microphone. Address yourself to the president. You may be asked to complete a speaker slip; while persons wishing to address the Board are not required to identify themselves (Gov't. Code § 54953.3), this information assists the Board by ensuring that all persons wishing to address the Board are recognized and it assists the Board Executive Secretary in preparing the Board meeting minutes. The president reserves the right to place a time limit on each person asking to be heard. If you wish to address the board concerning any other matter within the board's jurisdiction, you may do so during the public comment portion of the agenda.

BOARD MEMBERS, STAFF AND THE PUBLIC MAY ATTEND VIA ZOOM.

To participate and make a public comment in person, via Zoom or telephone, please raise your hand, speak up and introduce yourself.

Join Zoom Meeting: <https://ecrmc.zoom.us/j/87221732224?pwd=PgSF2gJW47Tnt5rLWN3cFpYgKmW2Ae.1>

Optional dial-in number: (669) 444-9171

Meeting ID: 872 2173 2224 **Passcode:** 547201

Public comments via zoom are subject to the same time limits as those in person.

OPEN SESSION AGENDA

ROLL CALL:

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENTS: Any member of the public wishing to address the Board concerning matters within its jurisdiction may do so at this time. Three minutes is allowed per speaker with a cumulative total of 15 minutes per group, which time may be extended by the President. Additional information regarding the format for public comments may be provided at the meeting.

BOARD MEMBER COMMENTS:

NEW BUSINESS:

1. Review and Approval of Confidentiality and Non-Disclosure Agreement with Imperial County Healthcare District, City of El Centro, and El Centro Regional Medical Center.

RECESS TO CLOSED SESSION:

A. HEARING/DELIBERATIONS RE MEDICAL QUALITY COMMITTEE REPORTS/STAFF PRIVILEGES. The Hospital Board will recess to closed session pursuant to Government Code

Section 37624.3 for a hearing and/or deliberations concerning reports of the ___ hospital medical audit committee, or X quality assurance committees, or X staff privileges.

B. TRADE SECRETS. The Hospital Board will recess to closed session pursuant to Govt. Code Section 37606(b) for the purpose of discussion and/or deliberation of reports involving hospital trade secret(s) as defined in subdivision (d) of Section 3426.1 of the Civil Code and which is necessary, and would, if prematurely disclosed create a substantial probability of depriving the hospital of a substantial economic benefit:

<u>Discussion of:</u>	<u>Number of Items:</u>
<u>X</u> hospital service;	<u>1</u>
<u>X</u> program;	<u>1</u>
<u>X</u> hospital facility	<u>1</u>

RECONVENE TO OPEN SESSION – BOARD PRESIDENT

ANNOUNCEMENT OF CLOSED SESSION ACTIONS, IF ANY – GENERAL COUNSEL

2. Approval of Report of Medical Executive Committee’s Credentials Recommendations Report for Appointments, Reappointments, Resignations and Other Credentialing/Privileging Actions of Medical Staff and/or AHP Staff (*Approved in Closed Session*)

ADJOURNMENT: Adjourn. (Time:) Subject to additions, deletions, or changes.

TO: HOSPITAL BOARD MEMBERS
FROM: Pablo Velez, Chief Executive Officer
DATE: April 11, 2024
MEETING: Board of Trustees



SUBJECT: Review and Approval of Confidentiality and Non-Disclosure Agreement between IVHD, the City of El Centro, and ECRMC.

BUDGET IMPACT: Does not Apply
A. Does the action impact/affect financial resources? Yes No
B. If yes, what is the impact amount: _____

BACKGROUND:

On October 8, 2023, the Governor signed AB 918, urgency legislation which went into effect immediately. AB 918 formed the Imperial Valley Healthcare District, which will dissolve Pioneers Memorial Hospital Healthcare District and Heffernan Memorial Healthcare District. AB 918 also provides that the newly formed Imperial Valley Healthcare District (IVHD) may acquire El Centro Regional Medical Center (ECRMC). IVHD's Board now has been appointed pursuant to the provisions of AB 918. The Board has elected officers and hired counsel and is meeting regularly.

In the course of such meetings, the City, ECRMC, and IVHD may need to provide IVHD with confidential or preliminary, non-public information. Therefore, the parties have agreed that a non-disclosure agreement (NDA) is needed..

DISCUSSION: The City proposed and (with some changes) IVHD has agreed upon the attached form of the non-disclosure agreement. This Agreement is between the City, ECRMC, and IVHD. PMHD and Heffernan will have separate NDA's. The City and ECRMC's non-public information will not be shared with PMHD during the acquisition process, and the same is true of PMHD's information. One of the first actions that will fall under the NDA will be the ongoing concern appraisal for the Hospital's main campus and its related facilities, housing, and clinics.

RECOMMENDATION: (1) Approve

ATTACHMENT(S):

- Confidentiality and Non-Disclosure Agreement

Approved for agenda, Chief Executive Officer

Date and Signature: Pablo Velez

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement ("**Agreement**") is made and entered into effective as of the first day of April, 2024, by and between the Imperial Valley Healthcare District, a California healthcare district ("**IVHD**"), the City of El Centro ("**City**"), a charter city which owns the real property located at 1415 Ross Ave. known as El Centro Regional Medical Center as well as the license to operate an acute care hospital, and the El Centro Regional Medical Center ("**ECRMC**"), a separate public agency that owns the personal property and non-real estate assets located at ECRMC. IVHD, City and ECRMC may each be referred to herein as a "**Party**," and collectively as "**Parties**."

RECITALS

A. Effective October 8, 2023, AB 918 was codified as Chapter 11, Division 23 of the Health and Safety Code, commencing with Section 32499.5 *et seq.* AB 918 formed a local healthcare district in the County of Imperial, designated as the Imperial Valley Healthcare District, which would include all the County of Imperial, and provided for the dissolutions of Pioneers Memorial Healthcare District and Heffernan Memorial Healthcare District .

B. Consistent with AB 918, the Parties intend to engage in discussions regarding the dissolutions of Heffernan and Pioneers, as well as good faith negotiations regarding the potential acquisition, sale, lease or other contractual business relationship intended to combine the Pioneers Hospital and the ECRMC into a single hospital across two campuses under the Imperial Valley Healthcare District ("**Transaction**").

C. In connection with the Transaction, it is necessary that the Parties furnish or cause to be furnished to each other certain nonpublic, confidential or proprietary information, including sensitive financial information. Such information may be provided verbally or in written form and in electronic or digital formats. Such information and all analyses, compilations, studies or other documents prepared by any Party or its respective affiliates, officers, employees, agents or advisors (including, without limitation, attorneys, accountants, consultants, bankers, and financial advisors) (collectively the "**Representatives**") which contain or otherwise reflect such information is referred to as "**Confidential Information**."

D. The Parties are willing to furnish or cause to be furnished to each other Confidential Information on the condition that each Party enters into and complies with this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants contained herein, the Parties hereto agree as follows:

AGREEMENT

1. Each Party who receives Confidential Information (the "**Receiving Party**") will maintain all Confidential Information provided by the other Party (the "**Disclosing Party**") in confidence and will not use such Confidential Information for any purpose other than in connection with the Transaction.

2. Receiving Party will limit the dissemination of and access to Confidential Information to its Representatives as may be reasonably required in order to evaluate the Transaction. Each Party agrees to cause its Representatives to abide by the terms of this Agreement. Each Representative shall be bound by obligations of non-disclosure and non-use regarding the Confidential Information at least as comprehensive as those obligations contained herein applicable to the Parties. Receiving Party shall be responsible for any breach of this Agreement by any of its Representatives.

3. Neither Receiving Party, nor any of its Representatives, will disclose any Confidential Information to any third party without the Disclosing Party's prior written consent, except as may be required by law or as ordered by a court of competent jurisdiction. If a Receiving Party or any of its Representatives is required by law (by interrogatories, requests for information or documents, subpoena, civil investigative demand or similar legal process) to disclose any Confidential Information provided by the Disclosing Party or to make any other disclosure otherwise prohibited under this Agreement, the Receiving Party shall provide the Disclosing Party with prompt and sufficient notice of each such request or required disclosure, so that the Disclosing Party may seek an appropriate protective order or waive compliance with the provisions of this Agreement, or both. If, absent the entry of a protective order or the receipt of a waiver under this Agreement, a Receiving Party or any of its Representatives is, in the opinion of the Receiving Party's counsel, legally compelled to disclose Confidential Information provided by the Disclosing Party, the Receiving Party may disclose such information to the persons only to the extent legally required without liability under this Agreement, provided that the Receiving Party shall also exercise reasonable efforts to obtain reasonable assurances that confidential treatment will be accorded any Confidential Information so furnished. Notwithstanding the foregoing provisions of this Section 3, any disclosures by the Parties pursuant to the California Public Records Act shall be governed instead by Section 5 of this Agreement.

4. In the event that IVHD does not acquire ECRMC, IVHD, as The Receiving Party shall, promptly following the earlier of (a) receipt of a written request of the other Party or (b) the final termination of discussions and negotiations between the Parties, destroy all Confidential Information of the Disclosing Party in the Receiving Party's possession or under its control, or in the possession or control of any of its Representatives unless the Receiving Party determines, in its own discretion, that it must retain such Confidential Information in order to comply with federal or state law, a public records request, a judicial or administrative order, a subpoena or a civil investigative demand. Each Receiving Party acknowledges that destruction of such Confidential Information shall not relieve such Receiving Party or any of its Representatives of its obligation of confidentiality

with respect to such Confidential Information. At such time as IVHD acquires ECRMC, such information shall become information of IVHD.

5. Notwithstanding any other provision of this Agreement, the Parties recognize that the City and ECRMC are subject to disclosure obligations under the California Public Records Act (the "PRA"), and that nothing in this Agreement shall be interpreted as limiting Parties' ability to abide by the requirements of the PRA as each respective party, in its sole discretion, deems appropriate. Each Party, as applicable, shall notify the Disclosing Party promptly upon determining that Confidential Information from the Disclosing Party may be subject to a pending PRA request. Such notification shall include a reasonably specific description of the Confidential Information potentially subject to disclosure pursuant to the pending PRA request (the "Potentially Responsive Records"). To the extent permitted by law, the Party subject to the PRA request shall then give the Disclosing Party a reasonable time period to demonstrate, to the sole satisfaction of the Party subject to the PRA request, as applicable, that some or all of the Potentially Responsive Records are (a) not relevant to the pending PRA request and/or (b) protected from disclosure pursuant to an exception codified in the PRA. If the Party subject to the PRA request, as applicable, thereafter concludes, in their own sole discretion, that some or all of the Potentially Responsive Records must be disclosed, then such Party, as applicable, shall so notify the Disclosing Party and to the extent permitted by law give the Disclosing Party a reasonable opportunity to seek a court order protecting such Potentially Responsive Records. Unless such a court order is secured in a timely fashion, the Party subject to the PRA request, as applicable, shall disclose those records that it determines in its own sole discretion must be released pursuant to the pending PRA request.

6. Public Information: Confidential Information which is generally available to the public, which becomes generally available to the public through no fault of any Party or its respective Representatives, or which becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party or the Disclosing Party's Representatives, shall cease to be Confidential Information for purposes of this Agreement.

7. Press Releases: The Parties shall maintain in strict confidence all discussions and negotiations between the Parties with respect to the Transaction, including the fact that Confidential Information has been made available or exchanged between the Parties. Without limiting the generality of the foregoing, whether or not a Transaction is consummated, neither Party shall issue a press release or make any statement to the general public concerning the Transaction or the absence thereof which references the other Party (by name or otherwise) without the express written consent of the other Party.

8. With respect to all Confidential Information exchanged between the Parties, each of the Parties understands and agrees that the Disclosing Party, through its authorized Representatives, is representing in good faith and in the interest of full transparency that the Confidential Information exchanged is true, complete and accurate.

9. The Receiving Party shall be responsible for the improper disclosure of Confidential Information by its Representatives, specifically including but not limited to

IVHD Board members. In the event of such improper disclosure, Disclosing Party may request and Receiving Party shall exclude such Representative from receipt of further Confidential Information and shall require the return of Confidential Information received by that Representative.

10. Notice: Any demand upon or notice required or permitted to be given by one Party to the other Party(ies) pursuant to this Agreement shall be in writing. Notice shall be delivered via both email and hard copy to the relevant Party at the addresses shown below. Notice shall be deemed effective when receipt is confirmed via email, or with respect to hard copy, (i) on the date of personal delivery, (ii) on the second business day after mailing by certified or registered United States Mail, return receipt requested, or (iii) on the succeeding business day after mailing by Express Mail or FedEx, postage prepaid, addressed to the party at the address shown below:

For IVHD:

Attn: Tomas Virgen
601 Heber Avenue
Calexico, CA 92231
tvirgen@heffernanmemorial.org
With a copy to:
Adriana Ochoa

For the City:

Attn: Cedric Cesena, City Manager
City of El Centro City Hall
1275 Main Street
El Centro, CA 92243
ccesena@cityofelcentro.org
With a copy to:
cdezilwa@cityofelcentro.org

For ECRMC:

Attn: Pablo Velez, CEO
El Centro Regional Medical Center
1415 Ross Avenue
El Centro, CA 92243
Pablo.Velez@ecrmc.org
With a copy to:
Belen.Gonzalez@ecrmc.org

11. This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to conflicts or choice of law principles.

12. Each Party acknowledges that monetary damages would not be a sufficient remedy for any breach of this Agreement by such Party or its Representatives. Accordingly, in the event of any such breach or threatened breach, the aggrieved Party, in addition to any other remedies at law or in equity that it may have (including liquidated damages), shall be entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief or specific performance or both.

13. This Agreement may not be amended, modified or supplemented without the signed written consent of all the Parties hereto and clearly expressing such intent.

14. Failure to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement at any one time shall not be deemed a waiver of such term, covenant, or condition at any other time, nor shall any waiver or relinquishment of any right or power herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time.

15. This Agreement may be executed in any number of counterparts (including by means of telecopied signature pages or signature pages sent electronically in a .pdf format), each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

16. In the event any provision of this Agreement or portion thereof is found to be wholly or partially invalid, illegal, or unenforceable in any proceeding, such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, or shall be deemed severed from this Agreement, as the case may require, and the balance of this Agreement shall be construed and enforced to the maximum extent permitted by law, as if such provision had been originally incorporated herein as so modified or restricted or as if such provision had not been originally contained herein, as the case may be.

17. This Agreement shall not be assigned or delegated by any Party without the signed prior written consent of the other Party. Absent an express written agreement among the Parties to the contrary, any assignment, delegation, or designation shall not release a Party from any obligations under this Agreement. Any purported assignment, delegation, or designation in violation of this Section is void.


18. This Agreement supersedes any and all prior agreements, written or verbal, between the Parties regarding the use or disclosure of Confidential Information in connection with the Transaction. The terms of this Agreement, rather than any prior such agreement, shall govern the use and disclosure of Confidential Information exchanged between the Parties regarding the Transaction.

19. Each person executing this Agreement on behalf of a Party warrants that: (1) such party is duly organized and existing; (ii) the signatory is duly authorized to execute and

deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

20. The recitals set forth above are hereby incorporated by reference into this Agreement to be given the same force and effect as if full set forth herein.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed and delivered through their duly authorized officers as of the date first written above.

CITY OF EL CENTRO


Name: Cedric Ceseña, City Manager

Date: 4/3/24

EL CENTRO REGIONAL MEDICAL
CENTER:

Name: Pablo Velez, CEO

Date: _____

IMPERIAL VALLEY HEALTHCARE
DISTRICT

Name: Tomas Virgen

Date: _____