

EXHIBIT B

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8 **UNITED STATES BANKRUPTCY COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 In re:

11 REGIONAL CARE SERVICES CORP.,
12 CASA GRANDE COMMUNITY
13 HOSPITAL
14 REGIONAL CARE PHYSICIAN'S
15 GROUP, INC., and
16 CASA GRANDE REGIONAL
17 RETIREMENT

Debtors.

Chapter 11 Proceedings

Case Nos. 4:14-bk-01383-EWH
4:14-bk-01384-EWH
4:14-bk-01385-EWH
4:14-bk-01386-EWH
(Joint Administration)

16 This Filing Applies to:

- 17 All Debtors
18 Specified Debtor(s)

Hearing Date: March 17, 2014
Hearing Time: 1:30 p.m.
Location: , Courtroom #329, U.S. Bankruptcy
Court, 38 S. Scott Avenue, Tucson, AZ

19 **DISCLOSURE STATEMENT FOR**
20 **DEBTORS' AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION**

21 **Dated: March 14, 21, 2014**

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TABLE OF CONTENTS

	<u>Page</u>
1	
2	
3	I. INTRODUCTION 1
4	A. Overview 1
5	B. Disclaimers and Limitations 3
6	C. Definitions 4
7	D. Classification and Treatment of Claims 4
8	E. Parties Entitled to Vote on the Plan 6
9	F. Voting Procedures, Confirmation Hearing, and Cramdown 6 <u>7</u>
10	G. Effect of Confirmation of the Plan 7 <u>8</u>
11	H. Approval of the Disclosure Statement 8
12	II. HISTORY AND ORGANIZATION OF THE DEBTORS 8
13	A. CGRMC 8
14	B. Background on Other Debtor Entities 9 <u>10</u>
15	C. Description of the Non-Debtor Affiliates 10 <u>11</u>
16	D. Outstanding Debts 11
17	E. Major Assets 14 <u>15</u>
18	F. Other Litigation 16 <u>17</u>
19	G. Events Leading to Chapter 11 Filing 16 <u>17</u>
20	III. DESCRIPTION OF PLAN TERMS 21 <u>22</u>
21	A. Description of the Plan and Means of Implementation 21 <u>22</u>
22	B. Plan Summary 22 <u>23</u>
23	C. Banner Transaction 22 <u>23</u>
24	D. Treatment of Claims 25 <u>27</u>
25	E. Executory Contracts and Unexpired Leases 29 <u>33</u>
26	F. Anticipated Litigation; Waiver of Avoidance Claims 30 <u>35</u>
27	G. Feasibility and Distributions to Creditors 31 <u>36</u>
28	H. Federal Income Tax Consequences to Creditors 32 <u>36</u>
	IV. THE CREDITOR TRUST 33 <u>38</u>
	A. Creditor Trust Agreement 33 <u>38</u>
	B. Appointment of Creditor Trustee 33 <u>38</u>
	C. Powers and Duties of the Disbursing Agent 33 <u>38</u>
	D. Corporate Authority 35 <u>39</u>
	E. Compensation of Creditor Trustee and Professionals Retained by Him 35 <u>39</u>
	F. Post-Effective Date Statutory Fees 35 <u>40</u>
	G. Post Confirmation Reports 35 <u>40</u>
	H. Exculpation 35 <u>40</u>
	V. PROCEDURES FOR RESOLVING AND TREATING CONTESTED CLAIMS 36 <u>40</u>

TABLE OF CONTENTS

(continued)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page

A.	Term of Bankruptcy Injunction or Stays 36 the Automatic Stay
B.	Objections to Claims and Settlements 36 41
C.	Reserves for Disputed Claims 36 41
D.	Other Provisions 37 41
VI.	MISCELLANEOUS PLAN PROVISIONS 37 41
A.	Waiver of Avoidance Claims..... 37 41
B.	Committee Dissolved..... 37 42
C.	Discharge 37 42
D.	Approval of Settlements and Releases 38 42
E.	Exculpation 38 43
F.	Releases 39 44
G.	Other Provisions 41 45
VII.	RISK FACTORS 41 45
VIII.	ALTERNATIVES AND POTENTIAL PLAN RECOVERY 42 47
A.	Chapter 7 Liquidation 42 47
B.	Alternative Plan 44 48
C.	Dismissal of Bankruptcy Case..... 44 49

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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18
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21
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I. INTRODUCTION

A. Overview

1. The Purpose of the Disclosure Statement

Regional Care Services Corp. (“RCSC”), Casa Grande Community Hospital d/b/a Casa Grande Regional Medical Center (“CGRMC”), Regional Care Physician’s Group, Inc. (“RCPG”), and Casa Grande Regional Retirement Community (“CGRRC”) (collectively, the “Debtors”) hereby submit this disclosure statement (the “Disclosure Statement”) pursuant to 11 U.S.C. § 1125.

The purpose of this Disclosure Statement is to provide Creditors¹ and interested parties in this proceeding with such information as is sufficient to allow Creditors and interested parties to make an informed decision regarding the Debtors’ Amended Joint Chapter 11 Plan of Reorganization, attached hereto as Exhibit A (the “Plan”). The Disclosure Statement describes the Plan and explains the Debtors’ pre-bankruptcy operations; debt obligations; financial history; and events leading up to the commencement of their chapter 11 cases (the “Chapter 11 Cases” or “Cases”).

2. Source of Information

Substantially all of the factual information utilized in this Disclosure Statement, including but not limited to the amount of claims, was obtained from information provided by the Debtors’ books and records, the knowledge of their officers, including Rona Curphy as Chief Executive officer and Karen Francis as Chief Financial Officer, and the advisory services of Grant Thornton LLP, the court-appointed Financial Advisor to the Debtors. The financial information, including the value of assets, is based on information provided by the Debtors’ officers to their professionals and was prepared for the purposes of this Disclosure Statement. Certain materials contained in this Disclosure Statement are taken directly from other readily accessible documents or are summaries of other documents. While every effort has been made to retain the meaning of such documents, creditors and other parties in interest are urged to rely upon the contents of such documents only after a thorough review of the documents themselves.

¹ See Section (I)(C)(1).

1 **3. Proposed Sale Transaction Under the Plan**

2 The Debtors filed these Cases to effectuate a sale of substantially all of their assets to
3 Banner Health (“Banner”) (the “Sale”). Assets will be transferred to Banner in exchange for up to
4 \$87 million in cash (subject to adjustments) and forgiveness of loans that Banner has extended or is
5 expected to extend to maintain hospital operations. Cash proceeds received upon the Sale Closing
6 (the “Sale Proceeds”) will pay the Debtors’ bond indebtedness, in the aggregate principal amount
7 of \$63,785,000 plus accrued interest and fees, in full in exchange for subordination of the \$1.3
8 million prepayment fee to all other claims. The remainder of the Sale Proceeds will be placed in a
9 trust for the benefit of Creditors (the “Creditor Trust”). Administrative expenses, priority claims,
10 and secured claims will be paid in full from the Creditor Trust. Remaining funds will be distributed
11 to general unsecured creditors followed by payment of the Allowed Bond Redemption Premium
12 Claim. The Debtors project there will be sufficient funds to pay all creditors in full upon closing of
13 the Sale; any surplus would be returned to Banner. Following final distributions, the Debtors’
14 estates will be wound down.

15 With the Sale, and by bringing the hospital the Debtors own and operate under the Banner
16 umbrella, the Debtors expect to be able to (1) ensure continued availability of outstanding medical
17 care to the Casa Grande community, (2) preserve jobs for the Debtors’ approximately 800
18 employees, and (3) generate cash in an amount that, by current projections, should be sufficient to
19 pay creditors in full or close to full.

20 The Sale is proposed in response to significant financial challenges facing this and other
21 hospitals, and comes after a considerable effort in searching for purchasers or strategic partners
22 conducted for the benefit of Creditors and the community the Debtors serve.

23 **4. Brief Explanation of Chapter 11**

24 Debtors filed a petition for Chapter 11 relief on February 4, 2014 (the “Petition Date”). In
25 Chapter 11, a debtor may reorganize its business or liquidate its assets under the protection of the
26 Bankruptcy Court. To facilitate this process, all efforts to collect prepetition claims from a debtor
27 and any secured creditor’s attempt to foreclose on or seize property of the debtor are stayed during
28 the pendency of the proceeding. A debtor in Chapter 11 is authorized to maintain possession of its

1 assets as a “debtor-in-possession” and operate its business in the ordinary course. Among powers
2 that a debtor-in-possession may exercise subject to Bankruptcy Court approval, a debtor may sell
3 assets free and clear of liens, it may borrow money on terms approved by Bankruptcy Court, and it
4 may assume or reject leases and executory contracts.

5 **B. Disclaimers and Limitations**

6 The information contained in this Disclosure Statement is included for purposes of
7 soliciting acceptances of, and obtaining confirmation of, the Plan and may not be relied upon for
8 any other purpose.

9 Creditors should note that amendments beneficial to one or more classes of claims without
10 further impairment of other classes may be made to the Plan prior to confirmation. Amendments of
11 that nature may be approved by the Bankruptcy Court at the confirmation hearing without
12 re-solicitation of Creditors and membership interest holders.

13 The descriptions of the Plan contained in this Disclosure Statement are summaries and are
14 qualified in their entirety by reference to the Plan. Each Creditor is encouraged to analyze the terms
15 of the Plan carefully.

16 The statements contained in this Disclosure Statement are believed to be accurate as of the
17 date of its filing unless another time is specified in the Disclosure Statement. They should not be
18 construed as implying that there has been no change in the facts set forth since the date the
19 Disclosure Statement was prepared and the materials relied upon in preparation of the Disclosure
20 Statement were compiled. Counsel for the Debtors makes no representation as to the accuracy of
21 the information contained in this Disclosure Statement.

22 This Disclosure Statement has been neither approved nor disapproved by the Securities and
23 Exchange Commission or any state securities regulator, and neither the Securities and Exchange
24 Commission nor any state securities regulator has passed upon the accuracy or adequacy of the
25 statements contained in this Disclosure Statement.

1 **C. Definitions**

2 **1. Defined Terms In the Plan**

3 Various terms are defined in Article II of the Plan. These defined terms are also used in the
4 Disclosure Statement and have the same meaning in this Disclosure Statement as set forth in the
5 Plan.

6 **2. Other Terms**

7 The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar inference refer
8 to the Disclosure Statement as a whole and not to any particular section, subsection, or clauses
9 contained in the Disclosure Statement unless otherwise specified herein. A term used herein or
10 elsewhere in the Disclosure Statement that is not defined herein or in the Plan shall have the
11 meaning ascribed to that term, if any, in the Bankruptcy Code or the Bankruptcy Rules. The
12 headings in the Plan are only for convenience of reference and shall not limit or otherwise affect the
13 provisions of the Plan.

14 **3. Exhibits**

15 All exhibits to the Plan and Disclosure Statement are incorporated into and are a part of the
16 Plan and Disclosure Statement as if set forth in full herein.

17 **D. Classification and Treatment of Claims**

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Class	Status	Treatment Under Plan	Estimated Distribution
Class 1 (Allowed Bond-Related Claims)	Impaired	The Allowed Bondholder Claim will be allowed in the principal amount of \$63,785,000 plus accrued interest, fees and expenses. After application of reserves, the Allowed Bondholder Claim will be paid in full in Cash at Sale Closing or as soon as reasonably practicable thereafter. In exchange, the Allowed Bond Redemption Premium Claim will be subordinated to Class 4 General Unsecured Claims.	100%
Class 2 (Banner Assumed Liabilities)	Unimpaired	The rights of the holders of Class 2 Claims shall not be affected by the Plan or Confirmation Order. Banner	100%

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Class	Status	Treatment Under Plan	Estimated Distribution
		has agreed to assume these liabilities pursuant to the APA.	
Class 3A (Allowed Cardinal Claim)	Impaired	The Allowed Cardinal Claim shall be paid in full on the Initial Distribution Date.	100%
Class 3B (Allowed Siemens Claim)	Impaired	The Allowed Siemens Claim shall be paid in full on the Initial Distribution Date.	100%
Class 3C (Allowed Baxter Claim)	Impaired	The Allowed Baxter Claim shall be paid in full on the Initial Distribution Date.	100%
Class 3D (Allowed Morgan Stanley Secured Claim)	Impaired	The <u>Allowed</u> Morgan Stanley Secured Claim shall receive the collateral securing the claim, <i>i.e.</i> , the Morgan Stanley Collateral, on the Effective Date.	100%
Class 3E (Allowed Great Western Claim (Pavilion))	Impaired	The Allowed Great Western Claim (Pavilion) shall be paid in full on the Initial Distribution Date.	100%
Class 3F (Allowed Great Western Claim (Urgent Care Center))	Impaired	The Allowed Great Western Claim (Urgent Care Center) shall be paid in full on the Initial Distribution Date.	100%
<u>Class 3G</u> <u>(Allowed First Financial Corporate Claim)</u>	<u>Impaired</u>	<u>The Allowed First Financial Corporate Claim shall be paid in full on the Initial Distribution Date.</u>	<u>100%</u>
Class 4A (General Unsecured Claims Against CGRMC)	Impaired	Commencing on the Initial Distribution Date, Holders of Allowed Claims in Classes 4A, 4B, 4C and 4D will receive a <i>pro rata</i> distribution of funds available for distribution from the Creditor Trust after (a) the Reserves, (b) payment of Administrative Expenses, Priority Claims, and Tax Claims not otherwise contained in the Reserve, and (c) payment on account of Allowed Class 1 and Allowed Class 3 Claims.	100%
<u>Class 4B</u> <u>(General Unsecured Claims)</u>	<u>Impaired</u>	<u>See Treatment of Class 4A above.</u>	<u>100%</u>

Class	Status	Treatment Under Plan	Estimated Distribution
Against RCSC)			
Class 4 C B (General Unsecured Claims Against RCPG RCSC)	Impaired	See Treatment of Class 4A above.	100%
Class 4 D C (General Unsecured Claims Against CGRR RCRCPG)	Impaired	See Treatment of Class 4A above.	100%
<u>Class 4D</u> <u>(General Unsecured Claims</u> <u>Against CGRRC)</u>	<u>Impaired</u>	<u>See Treatment of Class 4A above.</u>	<u>100%</u>
Class 5 (Membership Interests)	Impaired	Class 5 Membership Interests shall be cancelled and shall not receive anything under the Plan.	0%

The estimated Distributions set forth above are based upon the Debtors' estimates of the Allowed Claims in each class. There is no guaranty that each Class will receive the distribution estimate above.

E. Parties Entitled to Vote on the Plan

Under the provisions of the Bankruptcy Code, not all parties in interest are entitled to vote on the Chapter 11 Plan. Creditors whose Claims are not impaired by the Plan are deemed to accept the Plan under Bankruptcy Code § 1126(f) and are not entitled to vote. Further, a Holder of Claim or Interest that does not receive or retain any property under the Plan on account of such Claims or Interests is deemed to reject the Plan under Bankruptcy Code § 1126(g). Accordingly, Classes 1, 3 and 4 are entitled to vote on the Plan. Class 2 (Banner Assumed Liabilities) is deemed to accept the Plan. Class 5 is deemed to reject the Plan.

F. Voting Procedures, Confirmation Hearing, and Cramdown

1. Classified Claims and Interests

After approval of the Disclosure Statement by the Bankruptcy Court, certain Creditors will have an opportunity to vote on the Plan. Voting will be by class as set forth in the Plan and described later in this Disclosure Statement. For classes containing more than one Claim or

1 Interest, a class is deemed to have accepted the Plan if at least one-half of the Creditors in number
2 holding at least two-thirds of the aggregate amount of Claims voting elect to accept the Plan.

3 If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of
4 voting on the Plan. After carefully reviewing the Plan, this Disclosure Statement, and the detailed
5 instructions accompanying your Ballot, please indicate your acceptance or rejection of the Plan by
6 voting in favor of or against the Plan. **For your vote to be counted, you must complete and sign**
7 **your original Ballot and return it by 5:00 p.m. on _____, 2014, which is the last date**
8 **set by the Court to vote on the Plan.**

9 2. Confirmation Hearing

10 The Bankruptcy Court has set a hearing on Confirmation of the Plan and to consider
11 objections to Confirmation, if any, for _____, 2014 at _:__.m. The Confirmation hearing
12 will be held in Courtroom _____, Tucson, Arizona. At the hearing, the Bankruptcy
13 Court will consider whether the Plan satisfies the requirements of the Bankruptcy Code.

14 3. Cramdown

15 If any class of Claims or Interests fails to accept the Plan, the Bankruptcy Court may
16 confirm the Plan in accordance with Bankruptcy Code § 1129(b) on the basis that the Plan is fair
17 and equitable and does not discriminate unfairly with respect to any nonaccepting, Impaired Class.
18 Because Class 5 Membership Interests are deemed to reject the Plan under Bankruptcy Code §
19 1126(f), the Debtors are seeking confirmation of the Plan pursuant to Bankruptcy Code § 1129(b).

20 G. Effect of Confirmation of the Plan

21 Confirmation of the Plan makes the Plan and its provisions binding on the Debtors, all
22 Creditors, and other parties in interest, regardless of whether they have accepted or rejected the
23 Plan. As a result, Creditors may receive payment on their claims only in accordance with the Plan.
24 If confirmed, the estimated Effective Date of the Plan will be 15 days after the Bankruptcy Court
25 enters the Confirmation Order, unless such order is the subject of a stay by the Bankruptcy Court.

26 H. Approval of the Disclosure Statement

27 A decision by the Bankruptcy Court to approve this Disclosure Statement under Bankruptcy
28 Code § 1125 is a finding that the Disclosure Statement contains information of a kind and in

1 sufficient detail to enable a reasonable, hypothetical investor typical of holders of impaired claims
2 to make an informed judgment about the Plan and is not a recommendation by the Bankruptcy
3 Court either for or against the Plan.

4 **II. HISTORY AND ORGANIZATION OF THE DEBTORS**

5 **A. CGRMC**

6 **1. Operations of the Hospital**

7 CGRMC is an Arizona non-profit corporation that is exempt from federal income taxation
8 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. CGRMC was
9 incorporated in November 1981 and is sponsored by RCSC.

10 CGRMC operates a 177-licensed bed, general acute care hospital located in Casa Grande,
11 Arizona (the "Hospital"). CGRMC's medical center campus includes the Hospital building, Desert
12 Reflections Outpatient Imaging Center, four medical office buildings, and the Pavilion. CGRMC
13 also operates a 12,500 square foot urgent care center (the "Urgent Care Center") at a site near the
14 main campus.

15 CGRMC offers a broad range of services for acute care and ancillary services in both
16 inpatient and outpatient settings, with a significant amount of outpatient services provided at the
17 Urgent Care Center. CGRMC, in conjunction with RCPG, provides a wide range of medical
18 specialty services including cardiology, gastroenterology, gynecology, neurology, pediatrics,
19 surgery, intensive care and urology.

20 CGRMC is licensed by the Arizona Department of Health Services through June 2015 and
21 accredited by various organizations. CGRMC is accredited by Det Norske Veritas Healthcare, Inc.
22 (DNV) through April 2014. CGRMC's mammographic imaging and ultrasound services are
23 accredited by the American College of Radiology through September 2014 and October 2015,
24 respectively. CGRMC's laboratory has been accredited by the College of American Pathologists
25 through February 2014 and its sleep lab is accredited by the American Academy of Sleep Medicine.

26 CGRMC had net revenues of \$98,748,100 in 2013 and \$108,822,332 in 2012.

27 **2. Mission**

1 The Debtors' mission, as set forth in CGRMC's Articles of Incorporation, dated November
2 25, as amended, is as follows:

3 The Corporation is organized and shall be operated exclusively for charitable,
4 educational, and scientific purposes. The general nature of the business of the
5 corporation and the character of the affairs which the corporation initially intends
6 to conduct in the State of Arizona, shall be the care and nursing of the sick,
7 providing means for their sustenance, alleviation of their distress and to preserve
8 and restore health, to seek the cause and cure of diseases and to educate those who
9 would serve humanity. In furtherance and not in limitation of the purposes for
10 which the corporation is organized, solely for the above purposes and without
11 otherwise limiting its powers, the corporation is empowered to exercise all rights
12 and powers by the laws of Arizona upon nonprofit corporations.

13 In addition, CGRMC's mission and vision statements are as follows:

14 Mission Statement: We exist to make a positive difference in the lives of those we
15 serve through compassion and excellence in patient care.

16 Vision Statement: To be the healthcare system of choice for the communities we
17 serve.

18 3. ~~2.~~ **Overview of Employees**

19 CGRMC has approximately 800 employees, consisting of physicians, nurses and finance,
20 IT, billing, collections, accounting, administrative, and technical personnel. The medical staff
21 includes approximately 165 physicians, 81% of whom are board certified in their specialty. The
22 medical staff includes 11 hospitalists that are contracted through a third-party. CGRMC employs
23 one anesthesiologist and its affiliate, RCPG, employs six physicians: two general surgeons, one
24 general and vascular surgeon, one OB/GYN physician, one GYN physician and one neurologist.
25 CGRMC also has contracts with five independent anesthesiologists and a group of five Certified
26 Registered Nurse Anesthetists (CRNAs).

27 4. ~~3.~~ **Senior Management**

28 Senior management consists of Rona Curphy as Chief Executive Officer and President with
an approximate annual base salary in the amount of \$365,000 and Karen Francis as Chief Financial
Officer with an approximate annual base salary in the amount of \$300,000.

1 **B. Background on Other Debtor Entities**

2 RCSC is an Arizona non-profit corporation that is exempt from federal income taxation
3 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. RCSC was
4 incorporated in 1997 for charitable and educational purposes, and has the purpose of benefiting,
5 performing the functions of, and carrying out the purposes of the medical care in the community.
6 RCSC is the sole member and sponsor of CGRMC, RCPG and CGRRC. The RCSC board of
7 directors consists of five members (four independent members and one physician). As of the
8 Petition Date, RCSC's management consists of Rona Curphy as President , Karen Francis as Chief
9 Financial Officer, Cherie McGlynn as Chairman, David Fitzgibbons as Vice Chairman, and John
10 Robert McEvoy as Secretary/Treasurer.

11 CGRRC is an Arizona non-profit corporation that is exempt from federal income taxation
12 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. CGRRC was
13 incorporated in 1989 with the purpose of, among other things, providing elderly and handicapped
14 persons housing facilities and services specially designed to meet specific physical, social, and
15 psychological needs. The organization's central purpose also included support for charitable,
16 educational, and other exempt activities of CGRMC. CGRRC is the borrower on the loan for the
17 Urgent Care Center utilized under Hospital operations but there has been no activity in this
18 organization since 2005. As of the Petition Date, CGRRC's management consists of Rona Curphy
19 as President/CEO, Cherie McGlynn as Chairman, David Fitzgibbons as Vice Chairman, and John
20 Robert McEvoy as Secretary/Treasurer.

21 RCPG is an Arizona non-profit corporation that is exempt from federal income taxation
22 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. RCPG was
23 incorporated in 2008 with the purpose of providing medical services, medical programs and health
24 care for the benefit of patients in the service area of Casa Grande, and to manage the operations of
25 employed physicians that had formerly been under CGRMC operations. As of the Petition Date,
26 RCPG's management consists of Rona Curphy as President/Chief Executive Officer and Karen
27 Francis as Chief Financial Officer.

1 **C. Description of the Non-Debtor Affiliates**

2 Casa Grande Community Hospital Foundation, Inc. (the “Foundation”) was formed solely
3 and exclusively for the promotion of fundraising, charitable programs and to receive donations for
4 the benefit of the CGRMC and its affiliates. The Foundation ensures that donors’ intent is carried
5 out in use of the funds. The Foundation raises and provides funds for, among other things, breast
6 mammograms and diagnostics to uninsured women, pediatric clinic services, and medications.
7 Officers of the Foundation are David Fitzgibbons as Chairman, Robert McEvoy as Secretary and
8 Cherie McGlynn as Treasurer.

9 Regional Health Care Ventures, Inc. (“RHCV”) was formed for the purpose of holding a
10 minority interest in the joint venture for providing cancer treatment services for Arizona. There are
11 no operations at this entity. Officers of RHCV are Cherie McGlynn as Chairman and Rona Curphy
12 as President.

13 **D. Outstanding Debts**

14 **1. Bond Debt**

15 CGRMC issued certain Hospital Revenue Refunding Bonds (Casa Grande Regional
16 Medical Center), Series 2001A, pursuant to the Bond Documents (as defined in the Plan) in the
17 aggregate principal amount of \$41,485,000. CGRMC further issued certain Hospital Revenue
18 Refunding Bonds (Casa Grande Regional Medical Center), Series 2001B pursuant to the same
19 Bond Documents in the aggregate principal amount of \$4,645,000. Finally, CGRMC issued certain
20 Hospital Revenue Bonds (Casa Grande Regional Medical Center) Series 2002A pursuant to the
21 same Bond Documents in the aggregate principal amount \$25,475,000. The outstanding principal
22 due and owing on the bond obligations totals approximately \$63,785,000.

23 To secure repayment of the Bonds, CGRMC granted liens on its interest in the “Casa
24 Grande Hospital Site,” all “Buildings and Improvements” thereon, all “Collateral,” and all
25 “Fixtures” as defined in the Bond Documents, which liens collectively may cover substantially all
26 of CGRMC’s assets, including real estate. The grant of liens on rights to payment from Medicare
27 and similar programs which provide 70 percent of the Debtors’ revenues, however, is subject to the
28 federal Anti-Assignment Act. In addition, due to the nature of the Debtors’ operating bank

1 accounts, the lien on the Debtors' cash may be limited to identifiable proceeds of other collateral,
2 reducing the scope of the lien. On November 18, 2013, the Bond Trustee with respect to the Bonds
3 filed an amended UCC financing statement. To the extent that this financing statement was
4 necessary to perfect security interests in CGRMC's personal property, the filing could be subject to
5 review pursuant to Bankruptcy Code section 547.

6 The Plan provides that the Allowed Bondholder Claim, but not the Allowed Bond
7 Redemption Premium Claim, will be paid in full on or about the Effective Date, notwithstanding
8 any questions or issues regarding the full extent of the collateral securing the Bonds or whether any
9 grants of security are subject to preference or other avoidance challenge. In consideration, the
10 Allowed Bond Redemption Premium Claim shall be subordinate in payment to Class 4 General
11 Unsecured Claims and shall be paid to the extent funds are available for distribution from the
12 Creditor Trust after (a) the Reserves, (b) payment of Administrative Expenses, Priority Claims, and
13 Tax Claims provided in Article IV of the Plan not otherwise contained in the Reserve, and (c)
14 payment on account of Allowed Claims in Classes ~~1~~1 (except for the Allowed Bond Redemption
15 Premium Claim), 3, and 4.

16 2. Morgan Stanley Debt

17 In May 2005, CGRMC entered into several derivative financial agreements and
18 transactions (collectively, and together with the Term Sheet (defined below), the "Morgan Stanley
19 Documents and Transactions") with Morgan Stanley Capital Services LLC (f/k/a Morgan Stanley
20 Capital Services, Inc.) and/or Morgan Stanley & Co. LLC (f/k/a Morgan Stanley & Co.
21 Incorporated) (collectively, "Morgan Stanley"), consisting of the ISDA Master Agreement, dated
22 as of May 26, 2005, between CGRMC and Morgan Stanley Capital Services LLC (f/k/a Morgan
23 Stanley Capital Services Inc.) (as subsequently amended and together with any schedules and
24 exhibits thereto and confirmation thereunder), the Credit Support Annex to the schedule to the
25 Master Agreement, dated as of May 26, 2005, between CGRMC and Morgan Stanley Capital
26 Services LLC (f/k/a Morgan Stanley Capital Services Inc.) (as amended on April 1, 2010 and as
27 subsequently amended and together with any schedules and exhibits thereto), the transactions
28 entered into between CGRMC and Morgan Stanley under the ISDA Master Agreement, including

1 [those evidenced by the confirmations dated May 26, 2005 and bearing Morgan Stanley Reference](#)
2 [Numbers AUD5K, AUD5J, AUD5M, AUD5N and AUD5P,](#) the Debt Service Fund (Principal
3 Account) Forward Delivery Agreement, dated as of May 26, ~~2005 (Reference No. AUD5K),~~[2005,](#)
4 by and among CGRMC, Wells Fargo Bank, National Association, as trustee, Morgan Stanley
5 Capital Services LLC (f/k/a Morgan Stanley Capital Services, Inc.), and Morgan Stanley & Co.
6 LLC (f/k/a Morgan Stanley & Co. Incorporated), the Debt Service Reserve Fund Forward Delivery
7 Agreement, dated as of May 26, ~~2005 (Reference No. AUD5M),~~[2005,](#) by and among CGRMC,
8 Wells Fargo Bank, National Association, as trustee, Morgan Stanley Capital Services LLC (f/k/a
9 Morgan Stanley Capital Services, Inc.), and Morgan Stanley & Co. LLC (f/k/a Morgan Stanley &
10 Co. Incorporated), and the Debt Service Fund (Interest Account) Forward Delivery Agreement,
11 dated as of May 26, ~~2005 (Reference No. AUD5J),~~[2005,](#) by and among CGRMC, Wells Fargo
12 Bank, National Association, as trustee, Morgan Stanley Capital Services, LLC (f/k/a Morgan
13 Stanley Capital Services, Inc.), and Morgan Stanley & Co. LLC (f/k/a Morgan Stanley & Co.
14 Incorporated).

15 As collateral under the Morgan Stanley Documents [and Transactions,](#) Morgan Stanley
16 maintained a bank account in its name (the “[Collateral Account,](#)” with funds in the Collateral
17 Account that CGRMC was obligated to fund from time to time in accordance with the Morgan
18 Stanley Documents [and Transactions,](#) the “[Morgan Stanley Collateral](#)”). The Debtors’ books and
19 records indicate that \$752,372 is currently on deposit in the Collateral Account. CGRMC’s
20 obligations under the Morgan Stanley Documents [and Transactions](#) were otherwise unsecured.²

21 [On April 1, 2010, CGRMC and Morgan Stanley Capital Services LLC \(f/k/a Morgan](#)
22 [Stanley Capital Services Inc.\) entered into that certain Term Sheet, which, among other things, \(i\)](#)
23 [resolved the parties’ disagreement as to CGRMC’s obligations to post eligible collateral pursuant](#)

24 _____
25 ²~~In addition to the forward purchase agreements, in 2005 CGRMC entered into certain swap agreements with Morgan~~
26 ~~Stanley (the “Swap Agreements”). Pursuant to a supplement to one of the Bond Documents, Supplemental Master~~
27 ~~Indenture for Obligation No. 3, dated May 26, 2005, between CGRMC and Wells Fargo Bank, National Association, in~~
28 ~~its capacity as Master Trustee, CGRMC’s obligations under the Swap Agreements became secured under the Bond~~
~~Documents in the same collateral and to the same extent as the bond debt. In March 2010, the Board of Directors and~~
~~the Secretary of RCSC authorized resolutions to terminate the Swap Agreements. In April 2010, pursuant to an~~
~~agreement with Morgan Stanley, the Swap Agreements were terminated. Accordingly, CGRMC is currently only~~
~~obligated to Morgan Stanley under the forward purchase agreements.~~

1 [to the Morgan Stanley Documents and Transactions, and \(ii\) terminated transactions evidenced by](#)
2 [the confirmations bearing Reference Numbers AUD5N and AUD5P \(the “Term Sheet”\).](#)

3 On February 7, 2014, Morgan Stanley delivered notices to CGRMC that events of default
4 had occurred and were continuing under ~~each of~~ the Morgan Stanley Documents [and Transactions](#)
5 and that Morgan Stanley was exercising its right to immediately terminate ~~each of~~ the [remaining](#)
6 Morgan Stanley Documents [and Transactions](#) in accordance with their respective terms. On
7 February 21, 2014, Morgan Stanley delivered to CGRMC a settlement statement (the “[Morgan](#)
8 [Stanley Settlement Statement](#)”) setting forth the amounts Morgan Stanley alleges are due and
9 owing by the Debtors to Morgan Stanley under the Morgan Stanley Documents [and Transactions](#).

10 Morgan Stanley’s claims against the Debtors pursuant to the Morgan Stanley Documents
11 [and Transactions](#) include: (i) a secured claim secured by and to the extent of the Morgan Stanley
12 Collateral (the “[Allowed Morgan Stanley Secured Claim](#)”) and (ii) a General Unsecured Claim for
13 the remainder of the Debtors’ outstanding obligations under the Morgan Stanley Documents [and](#)
14 [Transactions](#) not secured by the Morgan Stanley Collateral, [which Claim shall be Allowed in the](#)
15 [amount of \\$3,877,640²](#) (the “[Allowed Morgan Stanley Unsecured Claim](#)”). ~~Pursuant to the Morgan~~
16 ~~Stanley Settlement Statement, Morgan Stanley asserts that it is owed \$4,029,307 on account of the~~
17 ~~Morgan Stanley Unsecured Claim. The Debtors do not stipulate to such amount and it is subject to~~
18 ~~further diligence and review.~~

19 3. Equipment Lease Obligations

20 The Debtors have certain debt obligations on account of medical equipment leases by and
21 between CGRMC and various medical equipment and equipment service providers including, but
22 not limited to, Siemens Financial Services, [Inc. and First Financial Corporate Leasing](#). As of the
23 Petition Date, capital lease obligations in the aggregate are estimated to be \$303,532. [The Debtors](#)
24 [intend to exercise a buyout with respect to all equipment as set forth in the respective leases under](#)
25 [the Allowed Siemens Claim and the Allowed First Financial Corporate Claim, and sell the](#)

26 _____
27 ² Pursuant to the Morgan Stanley Settlement Statement, Morgan Stanley asserted that it is owed \$4,029,307
28 on account of the Allowed Morgan Stanley Unsecured Claim. The Debtors calculations indicate that
Morgan Stanley is owed \$3,877,640 on account of the Allowed Morgan Stanley Unsecured Claim. Morgan
Stanley has consented to the Debtors’ calculated amount.

1 [equipment free and clear of liens to Banner. Based on the Debtors' books and records, the buyout](#)
2 [costs with respect to Siemens Financial Services, Inc. total approximately \\$180,000, and the buyout](#)
3 [costs with respect to First Financial Corporate Leasing total approximately \\$83,000.](#)

4 **4. Trade Debt**

5 The Debtors' trade debt consists of unsecured vendor liabilities that, in the aggregate,
6 approximate \$6.0 million as of the Petition Date. The Debtors' trade debt is typical for that of a
7 hospital -- debts for medical supplies and other goods and services necessary to provide patient care
8 and maintain the hospital.

9 **5. Bank Loans**

10 The Debtors have two bank loans pursuant to a certain bank loan agreement, dated June 25,
11 2004, by and between RCSC and Sunstate Bank in the principal amount of \$1,500,000 relating to
12 the Pavilion; and a certain bank loan agreement, dated September 15, 2005, by and between
13 CGRRC and Sunstate Bank in the principal amount of \$1,440,000 relating to the Urgent Care
14 Center. Great Western Bank now holds the beneficial interest with respect to these bank loans.

15 **E. Major Assets**

16 The Debtors operate the Urgent Care Center located at 1676 E. McMurray Blvd. Casa
17 Grande, AZ (Tax Parcel No. 505-66-002, 505-66-001). The bank loan agreement dated September
18 15, 2005 by and between Sunstate Bank and CGRRC provides a security interest against this real
19 property for the benefit of Great Western Bank, the Holder of the Claim.

20 In addition to the Urgent Care Center, the Debtors own real property located at 650 N.
21 Arizola Rd., Casa Grande, AZ 85122 . The bank loan agreement dated June 25, 2004 by and
22 between Sunstate Bank and Regional Care Services Corp. provides a security interest against this
23 real property for the benefit of Great Western Bank, the Holder of the Claim.

24 The Debtors own real estate, including property located at 1780 E. Florence Blvd. and 1800
25 E. Florence Blvd. The property located at 1800 E. Florence Blvd. is encumbered by two deeds of
26 trust, including one held by Wells Fargo and another held by Republic Bank. The property located
27 at 1780 E. Florence Blvd. is comprised of three units (Unit 1, Unit 4, and Unit 6). Unit 4 is
28 encumbered by a deed of trust originally held by Sunstate Bank.

1 The Debtors have nineteen bank accounts including twelve operating accounts, two savings
2 accounts, and five collateral accounts. The Debtors' obligations under the Bond Documents are
3 secured by cash in the Collateral Account at Wells Fargo & Company. The Debtors' obligations
4 under the Morgan Stanley Documents [and Transactions](#) are secured only by and to the extent of the
5 cash in the Morgan Stanley Collateral Account.

6 The Debtors' assets also include intercompany receivables and non-intercompany
7 receivables. The four non-intercompany receivables include: (1) patient receivables; (2) rent
8 receivables ; (3) receivable by Oasis Pavilion Nursing & Rehabilitation; and (4) pharmacy
9 receivables. The Debtors anticipate full collection on the four non-intercompany receivables
10 because the amounts are based on net estimated collectible amounts. The Allowed Cardinal Claim
11 and the Allowed Bondholder Claim are secured by these accounts.

12 The Debtors also own building fixtures and equipment. Schedule 3.3 to the APA provides a
13 list of encumbrances on the Debtors' building fixtures and equipment.

14 The Debtors hold inventory with an estimated value of \$2,640,981. The Allowed Cardinal
15 Claim and the Allowed Bondholder Claim are secured by inventory.

16 The Debtors' prepaid assets are comprised of the following: (i) prepaid insurance, (ii)
17 prepaid service agreements, (iii) prepaid dues and subscriptions, (iv) prepaid accounts payable, and
18 (v) prepaid software licensing and support. These prepaid assets are not likely to be recovered in a
19 liquidation scenario.

20 Finally, the Debtors expect an estimated potential recovery in the amount of \$480,505.95
21 (plus costs and interest) from a pending litigation matter in front of the Ninth Circuit Court of
22 Appeals titled Regional Care Services Corporation Health and Welfare Employee Benefit Plan v.
23 Companion Life Insurance Company, United States District Court No. CV10-2597-PHX-LOA,
24 Ninth Circuit No. 12-16538. The basis of the lawsuit was to recover on a denied claim under a stop
25 loss policy. RCSC prevailed on its claim in district court and the matter has been fully briefed at the
26 Ninth Circuit, awaiting arguments.

1 **F. Other Litigation**

2 The Debtors have a pending lawsuit brought by InterTech Computer Products, Inc. against
3 Casa Grande Regional MedicalCenter (“CGRMC”) and Bret Huth. In 2009, CGRMC entered into
4 an IT Managed Services Agreement with InterTech to provide remote helpdesk and vendor
5 management of CGRMC’s computer systems. In May 2010, Huth, an InterTech employee, was
6 assigned to be the primary InterTech technical support contact for CGRMC. Because the proposed
7 renewal rates were excessive, CGRMC terminated the InterTech contract on April 30, 2012 and
8 posted an opening for the position to bring the services in house. Huth applied for the position in
9 June 2012 and was offered the position. Before he commenced work, InterTech intervened
10 claiming that CGRMC’s employment of Huth violated their Agreement. Without admitting fault,
11 CGRMC withdrew the employment offer to Huth. Notwithstanding, InterTech filed suit on July
12 27, 2012 alleging that CGRMC breached the terms of its Agreement, which caused immediate and
13 irreparable harm and monetary damages. InterTech also alleged causes for breach of the implied
14 covenant of good faith and fair dealing and aiding and abetting. It is CGRMC’s position that the
15 Agreement only prohibits solicitation of InterTech employees and the posting of a job opening is
16 not a solicitation, therefore it did not breach the terms of the contract and the case has no merit. In
17 addition, CGRMC did not ultimately hire Huth. The parties participated in a court ordered
18 mediation on October 28, 2013. InterTech’s demand for \$138,000 to settle was rejected by
19 CGRMC.

20 **G. Events Leading to Chapter 11 Filing**

21 **1. Financial Challenges**

22 The Arizona Health Care Cost Containment System (“AHCCCS”) is Arizona’s Medicaid
23 program. AHCCCS oversees contracted health plans in the delivery of health care to individuals
24 and families who qualify for Medicaid and other medical assistance programs. AHCCCS, through
25 its contracted health plans, pays hospitals and other health care providers for inpatient and
26 outpatient services provided to AHCCCS members. Additionally, AHCCCS makes supplemental
27 payments to hospitals for different purposes and activities.

1 In 2011, AHCCCS's per diem reimbursement rates were reduced by more than ten percent.
2 Effective October 1, 2011, AHCCCS eliminated reimbursement for AHCCCS-eligible patients
3 after the twenty-fifth day of any inpatient treatment at a hospital or long-term acute care facility
4 during the federal fiscal year from October 1st through September 30th. AHCCCS also eliminated
5 coverage for otherwise eligible patients who do not have dependent children. These changes
6 resulted in a dramatic decrease in the Hospital's AHCCCS reimbursement for the medical services
7 it provides to these indigent patients.

8 CGRMC estimates that these changes resulted in a decline of its revenue in excess of \$10
9 million from 2011 to 2013. These AHCCCS changes also resulted in decreases in supplemental
10 federal reimbursements linked to treatment of Medicaid-eligible patients of an additional \$1
11 million annually.

12 Other external factors have also led to declining revenues including the industry-wide
13 migration of treatment from inpatient to outpatient settings (which are reimbursed at significantly
14 lower rates) and the 2% across the board reduction in Medicare reimbursement rates due to the
15 federal budget sequestration. For the fiscal year ended June 30, 2013, the Hospital's net patient
16 service revenue declined by over 11% from 2011 levels. In the first six months of the current fiscal
17 year, inpatient admissions have declined by approximately 15%, compared to the same period in
18 the prior year resulting in a further reduction in revenue. These changing dynamics have
19 substantially impacted CGRMC's operating margins and liquidity over the last two and one-half
20 years.

21 The Debtors have significant debt obligations, including its obligations under Bond
22 Documents in the aggregate principal amount of \$63,785,000. As a result of these financial
23 challenges, the Debtors violated certain bond covenants beginning on June 30, 2013.

24 The Debtors' business is very seasonal with patient volumes ramping up in the late Fall and
25 Winter and dropping off in the Spring, mirroring the population of the community. As a result of
26 this seasonality, CGRMC's working capital needs increase significantly as it increases its staffing
27 levels, purchased supplies and services to provide care for patients well in advance of receiving
28 reimbursement from Medicare, AHCCCS, commercial insurers and other payers.

1 Notwithstanding the financial challenges that CGRMC faces, the local community's need
2 for its medical services is critical. CGRMC is the primary medical service provider in its service
3 area, with an overall market share of approximately 59% in 2012. For the 12 months ended June
4 30, 2013, CGRMC admitted over 7,600 patients and had over 58,000 emergency room and urgent
5 care visits.

6 **2. Review of Strategic Options**

7 In the summer of 2013, CGRMC commenced an intensive review of strategic options that
8 would ensure that CGRMC could continue providing quality health care to the Casa Grande
9 community and surrounding areas and that the Debtors' creditor obligations would be satisfied.

10 CGRMC and other hospitals who had been negatively impacted by the 2011 changes in
11 AHCCCS applied to the federal government for a provider tax assessment program that was
12 expected to generate an incremental \$11,756,252 of net income to the Hospital for the last three
13 quarters of fiscal year 2013 and first two quarters in fiscal year 2014. This application was not
14 approved by the appropriate government agencies.

15 CGRMC pursued a refinancing of its bonds through a federal program that would have
16 reduced its financing costs by over \$2.5 million annually predicated on a successful
17 implementation of the provider tax assessment program. This refinancing effort ultimately failed
18 when the provider tax was not approved.

19 CGRMC also pursued a strategic partnership with a for-profit hospital system based in
20 Brentwood, Tennessee. This effort ultimately failed.

21 In May 2013, CGRMC retained Hammond Hanlon Camp ("H2C"), a leading financial
22 advisor and investment banker for hospital and health systems, to assess CGRMC's strategic and
23 restructuring options. CGRMC concluded that it would have inadequate cash to continue
24 operations and was forced to evaluate all strategic options, including filing for bankruptcy.
25 Nevertheless, CGRMC continued to search for other strategic partners and options that would
26 avoid insolvency.

27 In October 2013, on behalf of CGRMC, H2C contacted twenty potential strategic partners,
28 fifteen of which received CGRMC's confidential information memorandum describing CGRMC,

1 its operations, the Casa Grande market, and the Hospital's financial condition. Six of the recipients
2 submitted an indication of interest in CGRMC, including Banner, another potential not-for-profit
3 strategic partner, and four for-profit health systems. Ultimately, Banner and three other potential
4 strategic partners, including Dignity Health, a California non-profit public benefit corporation,
5 submitted proposed term sheets for a potential partnership.

6 The CGRMC Board considered numerous factors in choosing a strategic partner, including
7 the likelihood of satisfying creditor claims, execution risk, transition of the assets from the Debtors
8 as a non-profit to Banner as a non-profit, and CGRMC's mission, and determined that Banner
9 presented the best option to satisfy the Debtors' creditor obligations and continue CGRMC's
10 mission to provide and expand quality health care to the Casa Grande community and surrounding
11 areas in a caring and compassionate environment. The CGRMC Board concluded that the terms
12 proposed by Dignity Health were inferior to those proposed by Banner because of, among other
13 reasons, the significant execution risk and the determination that the Banner transaction was more
14 likely to continue CGRMC's mission to provide quality health care to the Casa Grande community.
15 Moreover, Banner played a greater role in understanding and facilitating the federal review process
16 under Hart-Scott Rodino.

17 **3. About Banner**

18 Banner is a non-profit health system headquartered in Phoenix, Arizona that operates 24
19 hospitals and health care facilities in Alaska, Arizona, California, Colorado, Nebraska, Nevada and
20 Wyoming, in addition to the Banner Health Network and Banner Medical Group. It currently
21 employs approximately 36,000 individuals. Banner provides a strong financial option for
22 CGRMC, with operating revenue of \$5.0 billion, operating earnings before interest, taxes,
23 depreciation and amortization of \$683 million, cash and investments of \$3.6 billion, almost 300
24 days cash on hand, and an Aa3/AA- rating. Significantly, the substantial capital of reserves on
25 hand shows financial strength and ability to make needed capital investments. As important,
26 Banner's non-profit mission of making a difference in people's lives through excellent patient care,
27 and reinvesting all of its earnings back into improving patient care, aligns directly with CGRMC's
28 mission.

1 **4. Debtors' Current Financial Status**

2 According to the Debtors' books and records, as of February 28, 2014, CGRMC continues
3 to demonstrate the severe financial stress the Hospital is operating under. The eight month fiscal
4 year operating loss equals \$12.25 million, which is more than twice the loss from a year ago of \$5.8
5 million. The current year loss also includes a one-time transfer from its Foundation of \$1.45
6 million and an additional \$1.47 million from Medicare Meaningful Use reimbursement. There will
7 be no additional funds received from either of these sources the remainder of the fiscal year.
8 Without these two sources of funding this year, the Hospital's loss year to date would be \$15.16
9 million.

10 The Hospital has written off \$27 million in bad debts and charity. Medicaid (AHCCCS)
11 expansion began in Arizona on January 1st, but will continue to be a very slow process as the state
12 AHCCCS program more than doubles its enrolled members over the next eighteen months. As
13 payments lag at least 60-90 days behind providing the services to patients, the Debtors do not
14 anticipate seeing any significant positive impact to their cash position for several months. In
15 addition, the expansion does not eliminate the reimbursement cuts put into place in 2011 by
16 AHCCCS. Those cuts reduced the payment rate by over 10% and limited inpatient Hospital
17 coverage payments to 25 days per year.

18 The Hospital had total unrestricted cash in the amount of \$6.464 million available for use on
19 February 28th. This includes \$4.82 million of cash funding provided from Banner Health since
20 January. Without the additional funding beginning in January, the Hospital would not have been
21 able to pay its payroll and would be completely insolvent at this time. The Hospital began delaying
22 payments to its vendors last May. Prior to the bankruptcy filing many vendors began demanding
23 payment for back invoices before they would deliver any more product or services. Since the
24 filing, many additional vendors have now gone to COD or require a wire payment on the day of
25 delivery to continue to provide goods. Even with the funding from Banner, trade accounts payable
26 have still increased \$3.8 million over the prior year.

27 The Hospital has not funded its mandatory Bond sinking fund payments of approximately
28 \$540,000 per month to preserve its cash since September 2013. This is a default under the Bond

1 covenants as are its ongoing failure to meets its debt coverage ratio and required days of cash on
2 hand ratio.

3 The Hospital has only expended \$1.5 million for its capital needs the past nineteen months.
4 The industry standard for capital expenditures in Hospitals is to spend at least as much as current
5 year depreciation to prevent the aging of the plant and equipment. This would have required total
6 capital expenditures during this same nineteen month period of \$9.5 million. As a result, the
7 Hospital's plant and equipment is rapidly aging. During this time, capital dollars have only been
8 expended for two primary purposes: (1) when a piece of existing equipment breaks and cannot be
9 repaired because the item is so old it is unserviceable, or the repair costs don't make sense in
10 relation to the new purchase cost; and (2) additional investment has been required in information
11 technology to enable the Hospital to continue to qualify for meaningful use dollars, which
12 substantially exceed the cost of investment. If meaningful use is not met by a Hospital by 2015,
13 Medicare will begin reducing payments.

14 Were a significant piece of Hospital equipment to break today, there are no dollars available
15 to replace it and there is no financing available due to the current financial situation. This has been
16 the situation for over a year. An example of this is the Hospital's cardiac cathertization laboratory
17 equipment. This equipment is more than fourteen years old, has gone down unexpectedly multiple
18 times the past year with various part failures, and will cost \$2 million to replace. This equipment
19 provides a much needed service within the Community and has saved many lives.

20 III. DESCRIPTION OF PLAN TERMS

21 A. Description of the Plan and Means of Implementation

22 **The entire text of the Plan has been provided with this Disclosure Statement, and a**
23 **general overview of the Plan is provided in Article I. The following is a summary of certain**
24 **provisions of the Plan; however, this summary is not comprehensive. The Plan and not the**
25 **Disclosure Statement is the legally operative document that controls the relationship between**
26 **the Debtors and their Creditors. Therefore, the Plan should be read carefully and**
27 **independently of this Disclosure Statement. Creditors are urged to consult with counsel and**
28 **other professionals in order to fully resolve any questions concerning the Plan.**

1 **B. Plan Summary**

2 The Plan proposes two basic sets of transactions. First, the Debtors would sell substantially
3 all of their assets to Banner. Second, the net sales proceeds would be disbursed out of escrow to pay
4 the Allowed Bondholder Claim in the compromised amount, with the balance placed in a trust for
5 the benefit of creditors and distributed in accordance with their amounts, lien rights or statutory
6 priority. If there are disputes as to claim amounts or other relevant matters, such disputes may be
7 brought before the Bankruptcy Court for determination,

8 **C. Banner Transaction**

9 **1. Overview**

10 A copy of the Asset Purchase Agreement, by and between the Debtors, as sellers, and
11 Banner, as purchaser, dated as of February 4, 2014, and as may be amended, modified or
12 supplemented from time to time (the “APA”), is attached as Exhibit A to the Plan. The details of
13 the transaction set forth in the APA and its specific terms control. By way of a general description,
14 however, Banner and the Debtors agreed that Banner would acquire, among other things,
15 substantially all of the Debtors’ assets with the exception of certain excluded assets (as more
16 specifically set forth in the APA, the “Transferred Assets”) and would assume certain liabilities.

17 Banner will pay Debtors cash equal to the lesser of (A) the aggregate amount necessary to
18 pay Allowed Claims against the Debtors in full after payment of allowed, unpaid pre-confirmation
19 expenses of the bankruptcy and post-confirmation bankruptcy expenses approved by Banner or
20 approved by the Court, excluding postpetition interest on unsecured claims and excluding all
21 claims of Banner, or (B) \$87,000,000 minus certain paid time off obligations for employees who
22 will work for Banner after the Sale Closing and certain pre-Closing taxes and also certain Cost
23 Report liabilities of the Debtors (the “Purchase Price”). At Closing, Banner will deliver an amount
24 the parties determine under alternative (B) into escrow. The escrow agent will record documents
25 and disburse the funds. The amount necessary to pay the Allowed Bondholder Claim will be paid
26 out of escrow and the balance will be disbursed to the Creditor Trust to be administered and
27 disbursed in accordance with the APA, the Plan, and the Confirmation Order. Upon payment in full
28

1 of certain bankruptcy expenses and Allowed Claims, the Creditor Trust will return any remaining
2 cash to Banner.

3 In addition to the cash payment, prepetition and postpetition loans that Banner extended to
4 the Debtors to sustain hospital operations and allow the Chapter 11 Cases to proceed, in a total
5 principal amount up to \$9,507,845, will be deemed satisfied upon the Sale Closing.

6 2. Conditions to Closing

7 Pursuant to Section 7.1(a)(iii) of the APA, Banner had the right to terminate the APA any
8 time up to and including February 28, 2014 if it determined, based on due diligence or otherwise,
9 that it was no longer commercially reasonable to proceed to Closing. See APA at § 7.1(a)(iii). That
10 date has passed and Banner has not exercised its option to terminate. Accordingly, Banner may
11 only terminate the APA, without the consent of the Debtors, under three scenarios: (i) if a condition
12 to Banner's obligation to close, as set forth in Section 6.1 of the APA, is not satisfied; (ii) if an
13 Action (as defined therein) is commenced by a governmental authority under applicable federal or
14 state antitrust law seeking to enjoin, modify or otherwise prohibit the Sale; and (iii) if the Sale does
15 not close by June 30, 2014. Id. at § 7.1.

16 The conditions to Banner's obligation to close, provided under Section 6.1 of the APA,
17 include: (i) the representations and warranties made by the Debtors are true and accurate, and the
18 covenants and obligations of the Debtors have been performed; (ii) there is no stay of the
19 Confirmation Order in effect and no injunction, restraining order proceeding or regulation in effect
20 that enjoins or prohibits the Sale; (iii) all governmental and third-party approvals necessary for
21 consummation of the Sale have been obtained; (iv) any consents necessary to transfer the
22 Transferred Assets have been obtained; (v) all Encumbrances other than Permitted Encumbrances
23 (as those terms are defined in the APA) on the Transferred Assets have been released; and (vi) the
24 Confirmation Order shall have been entered in a form and substance reasonably acceptable to
25 Banner. The Debtors are confident that each of the conditions to Banner's obligation to close will
26 be met.

27 3. ~~2.~~ **Purchase and Sale**

1 Subject to the terms and conditions of the APA, and pursuant to the Plan, Banner will
2 purchase, and the Debtors will sell, the Transferred Assets on the Effective Date or at a later date
3 consistent with the terms of the APA. The Plan further provides that (i) Banner and the Debtors
4 shall perform the terms and conditions of the APA, and (ii) upon the Effective Date and subject to
5 the conditions of the APA, the Debtors are authorized and directed to execute, deliver, perform
6 under, consummate and implement the APA, together with all additional instruments and
7 documents reasonably necessary or desirable to implement it.

8 The Plan provides for a private sale to Banner. The Debtors do not intend to hold a public
9 auction for the Transferred Assets. Dignity Health, an unsuccessful bidder whose proposal the
10 Debtors decided not to pursue, has acquired roughly \$950 in claims in order to obtain standing to be
11 heard in these Cases. Dignity Health has argued, among other things, that a private sale to Banner
12 not subject to auction is improper. The Debtors are aware of no statute or rule requiring the Sale be
13 subject to auction, and none have been cited by Dignity. The Debtors believe that a marketing and
14 selection process additional to the one that was conducted prior to the commencement of these
15 Cases would not be in the best interests of creditors nor would it serve to further CGRMC's
16 mission. Several factors inform the Debtors' judgment in that regard. Proceeds from the Sale to
17 Banner are anticipated to pay all Allowed Claims in full. The Debtors have made significant
18 progress with Banner toward closing the transaction, and Banner is prepared to close, assuming all
19 the conditions to closing are satisfied, once the confirmation order becomes final. The Debtors are
20 confident that all conditions to Banner's obligation to close will be satisfied. And discretionary
21 regulatory approvals necessary to effectuate the Sale have occurred with respect to the Sale to
22 Banner, leaving only non-discretionary actions still to be completed (e.g. issuance of a new hospital
23 license and the like). To reopen the process to other potential purchasers could provide Banner
24 incentive and the legal right to terminate the APA. Moreover, the sale to any party other than
25 Banner would necessarily involve significant continued operating and bankruptcy costs, risk,
26 delay, and incremental (unfunded) costs as those regulatory approval processes would start over,
27 including the 90-day notice requirement under the Day Act, and no other potential purchaser has
28

1 [undertaken material diligence efforts. Accordingly, the Debtors believe that the Sale to Banner, as](#)
2 [provided for under the Plan, is in the best interests of creditors and the estates.](#)

3 **4. ~~3-~~Corporate Authority**

4 The Plan and Confirmation Order shall constitute full corporate authorization to execute
5 and perform the APA.

6 **5. ~~4-~~Transfer Free and Clear**

7 Pursuant to the Plan and Bankruptcy Code sections 363(f) and 1141(c), the sale and transfer
8 of the Transferred Assets to Banner shall be free and clear of all claims and interests in such
9 Transferred Assets, including liens, claims, interests, obligations and encumbrances whatsoever,
10 held by Creditors or members of the Debtors. Liens shall attach to the Sale Proceeds in the same
11 validity, scope and priority as existed against the Transferred Assets and shall be held in the
12 Secured Claim Reserve pending distribution by the Creditor Trustee.

13 **6. ~~5-~~Banner Assumes No Liability**

14 Except for the Assumed Liabilities (as defined in the APA), Banner shall assume no
15 liability to any Creditor of the Debtors by virtue of the transactions provided for in the Plan and the
16 APA under any theory of contract, tort or doctrine of successor liability. Banner shall be deemed
17 not to be a successor to the Debtors for purposes of the doctrine of successor liability. Upon the
18 Effective Date and the closing pursuant to the APA, each and every holder of a claim against the
19 Debtors shall be permanently enjoined from commencing, continuing or otherwise pursuing or
20 enforcing any remedy, claim, cause of action or encumbrance against Banner or the Transferred
21 Assets.

22 **7. ~~6-~~Employment Arrangements**

23 As of the date of execution of the APA, and except to the extent provided under Section
24 5.8(e) of the APA, no member of the senior management team had received any promise by Banner
25 regarding future employment or future compensation. As of March 12, 2014, Banner informed Ms.
26 Curphy of its intent to continue her role under the same position, with the same responsibilities, and
27 the same compensation structure with the exception of her transition into the benefits plan that
28 Banner maintains for employees.

1 **8.** ~~7.~~ **Purchase Price**

2 (i) **Cash Purchase Price.** As generally described in the Overview
3 above and set forth in detail in the APA, the Cash Purchase Price payable subject to
4 the terms of the APA shall be paid to an escrow agent, who will pay the Allowed
5 Bondholder Claim and disburse remaining funds to the Creditor Trust established
6 pursuant to Section 9.01 of the Plan. Upon resolution of all Allowed and Disputed
7 Claims, completion of distributions thereon and payment of the expenses of the
8 Creditor Trust, all Professional Fees, and any fees due to the United States Trustee
9 under 28 U.S.C. § 1930, and the Allowed Bond Redemption Premium Claim, any
10 remaining funds shall be returned to Banner.

11 (ii) **Loan Forgiveness.** Pursuant to the Plan and in accordance with the
12 APA, any and all obligations under the Prepetition Bridge Loan and the DIP Loan
13 shall be deemed forgiven upon the Sale Closing.

14 **9.** ~~8.~~ **Professional Fees Reserve**

15 As provided in and subject to the terms of the DIP Loan, on the Effective Date Banner shall
16 advance DIP Loan funds as part of the Carve-Out in an amount equal to the difference of (i) the
17 cumulative amounts appearing in the Budget for professional fees and disbursements as of the
18 Effective Date less (ii) the cumulative amounts actually funded for payment of Professional Fees
19 and disbursements as of such date. The DIP Loan advance shall be deposited into a separate
20 account maintained by the Creditor Trustee (the “Professional Fees Reserve Account”) and used
21 exclusively for payment of allowed professional fees and disbursements incurred by Borrower or
22 any committee appointed pursuant to 11 U.S.C. § 1102 prior to the Effective Date. In the event any
23 balance remains in the Professional Fee Reserve Account after full payment of all such allowed
24 professional fees and disbursements, such balance shall be returned to Banner.

25 **D. Treatment of Claims**

26 The Plan provides claims will be treated based upon their type, as follows:

27 **1. Administrative Expense Claims**

1 The deadline for filing an administrative expense claim (other than post-petition operating
2 expenses or professional fees) (an "Administrative Expense Claim") shall be 30 days after the
3 Effective Date. Except to the extent any entity entitled to payment of an Allowed Administrative
4 Expense Claim has received payment on account of such Claim prior to the Effective Date, each
5 Holder of an Allowed Administrative Expense Claim shall receive, in full and final satisfaction of
6 its Allowed Administrative Expense Claim, Cash in an amount equal to the amount of such
7 Allowed Administrative Expense Claim, by the later of (i) the date that is 14 days after the
8 Effective Date or (ii) the date that is 14 days after the Administrative Expense Claim is Allowed.
9 Notwithstanding the foregoing, the Debtors are permitted to pay administrative expense claims
10 arising from the ordinary course of business without the need for application or court order.

11 The estimated administrative expenses and fees to be paid for professionals are provided in
12 further detail in the budget attached hereto as Exhibit B—(the "Budget"). Based on the progress of
13 these Cases, the Debtors currently estimate that the Plan Effective Date may occur on or around
14 May 30, 2014. Assuming a May 30, 2014 Effective Date, the Budget provides for roughly \$3.7
15 million in administrative expenses and fees to be paid for professionals for the entire duration of
16 these Cases, i.e., the Petition Date through the Effective Date. That amount does not include a
17 success fee payable to H2C, which is the greater of \$800,000 or 2% of the consideration received
18 upon completion of the Sale closing. The \$3.7 million does include roughly \$250,000 for fees of a
19 creditors' committee, although one has not yet (and may not be) appointed. To the extent the
20 Effective Date is delayed beyond May 30, 2014, administrative expenses and fees would increase,
21 as set forth in the Budget. The Debtors believe that these administrative expenses and fees are
22 commensurate with those that would be incurred if the Sale were to occur outside of bankruptcy.

23 2. Tax Claims

24 Except to the extent any entity entitled to payment of any Allowed Tax Claim has received
25 payment on account of such Claim prior to the Effective Date, each Holder of an Allowed Tax
26 Claim shall receive, in full and final satisfaction of its Allowed Tax Claim, Cash in an amount equal
27 to the amount of such Tax Claim within 14 days after the Effective Date.

28 3. Professional Fees

1 Professionals retained by the Debtors or the Committee under §§ 327 of the Bankruptcy
2 Code and to be compensated pursuant to §§ 327, 328, 330, 331, or 503(b)(2) or (4) of the
3 Bankruptcy Code (“Professionals”) seeking payment of professional fees or reimbursement of
4 expenses incurred through and including the Effective Date under §§ 330(a) and 503(b)(2), of the
5 Bankruptcy Code (“Professional Fees”) shall file their respective final applications on or before the
6 date that is 60 days after the Effective Date, unless otherwise directed by the Court.

7 Professionals include, but are not limited to: (i) Brownstein Hyatt Farber Schreck, LLP, the
8 Debtors’ bankruptcy counsel; (ii) Mesch Clark & Rothschild, P.C., local bankruptcy counsel; (iii)
9 Grant Thornton LLP, the Debtors’ financial advisor; (iv) Hammond Hanlon Camp LLP, the
10 Debtors’ investment banker; (v) antitrust counsel; (vi) Epiq Bankruptcy Solutions, Inc., the
11 Debtors’ claims agent; and (vi) any Professionals retained by the Committee, if one is appointed.
12 The Debtors estimate that the fees of the Professionals through the Effective Date of the Plan will
13 not exceed the amounts budgeted by the Debtors.

14 **4. Priority Claims**

15 Each holder of a Priority Claim, if any, shall receive, in full and final satisfaction of its
16 Priority Claim, Cash in an amount equal to the Allowed Amount of such Priority Claim within 14
17 days after the Effective Date.

18 **5. Statutory Fees**

19 On or before 30 days after the Effective Date, the Creditor Trustee shall make all payments
20 required to be paid the U.S. Trustee pursuant to § 1930 of Title 28 of the United States Code. All
21 fees payable pursuant to § 1930 of Title 28 of the United States Code after the Effective Date shall
22 be paid by the Creditor Trustee on a quarterly basis until these Cases are closed, converted, or
23 dismissed.

24 **6. Classified Claims**

25 The remaining Claims and Interests are divided into 5 Classes.

26 (i) Class 1: Allowed Bond-Related Claims

27 As of the Effective Date, the Allowed Bondholder Claim shall be deemed Allowed for all
28 purposes in the aggregate principal amount of \$63,785,000, plus (ii) accrued interest thereon under

1 the Bond Documents through the Confirmation Date, plus (iii) the reasonable fees and expenses of
2 the Master Trustee and Bond Trustee, respectively, and their respective counsel and advisors in the
3 amounts set forth in the Confirmation Order. By agreement, the Allowed Bondholder Claim does
4 not include the Allowed Bond Redemption Premium Claim.

5 Also as of the Effective Date, the Master Trustee and the Bond Trustee shall be deemed to
6 have applied all cash and cash equivalents held by each to reduce the aggregate amount of Allowed
7 Bondholder Claim. According to the Debtors' books and records, this amount is estimated to be
8 \$6.1 million. The remaining amount of the Allowed Bondholder Claim shall be paid through
9 escrow at Sale Closing or as soon thereafter as reasonably practicable. The Allowed Bond
10 Redemption Premium Claim ~~Premium~~ shall be subordinated to the Class 4 General Unsecured
11 Claims and shall be paid if, and after, Allowed Claims in Classes ~~1~~, 1 (except for the Allowed Bond
12 Redemption Premium Claim), 3, and 4 are paid in full. This treatment of the Allowed Bondholder
13 Claim and the Allowed Bond Redemption Premium Claim shall be in full and final satisfaction of
14 the Allowed Bondholder Claim, the Allowed Bond Redemption Premium Claim, any and all
15 Claims of the Bond Trustee, the Master Trustee, and all Holders of the Bonds, and all Claims in
16 respect of, arising out of, or related to the Bond Documents.

17 (ii) Class 2: Banner Assumed Liabilities

18 The rights of the Holders of Class 2 Claims shall not be affected by the Plan or
19 Confirmation Order. Banner has agreed to assume these liabilities pursuant to the APA.

20 (iii) Class 3: Secured Claims

21 **Class 3A.** Class 3A consists of the Secured Claim of Cardinal Health. According
22 to the Debtors' books and records, this Claim totals approximately \$1.2 million. The Allowed
23 Cardinal Claim shall be paid in full on the Initial Distribution Date.

24 **Class 3B.** Class 3B consists of the Secured Claim of Siemens Financial Services,
25 Inc. According to the Debtors' books and records, this Claim totals approximately ~~\$200,000.~~
26 434,000, which Secured Claim consists of total amounts due, and the fair market value buyout
27 amount for all equipment as set forth in, the aforementioned leases. The Allowed Siemens Claim
28 shall be paid in full on the Initial Distribution Date.

1 **Class 3C.** Class 3C consists of the Secured Claim of Baxter Healthcare Corp.
2 According to the Debtors' books and records, this Claim totals approximately \$1,000. The
3 Allowed Baxter Claim shall be paid in full on the Initial Distribution Date.

4 **Class 3D.** Class 3D consists of the Allowed Morgan Stanley Secured Claim.
5 Morgan Stanley has two claims in these Cases: (i) the Allowed Morgan Stanley Secured Claim,
6 which is secured by and to the extent of the Morgan Stanley Collateral, and (ii) the Allowed
7 Morgan Stanley Unsecured Claim, which represents the unsecured remainder of the Debtors'
8 outstanding obligations to Morgan Stanley under the Morgan Stanley Documents and Transactions.
9 On the Effective Date, Morgan Stanley shall receive, in full satisfaction of the Allowed Morgan
10 Stanley Secured Claim, the Morgan Stanley Collateral. The Allowed Morgan Stanley Unsecured
11 Claim shall be treated as ~~aan Allowed~~ Class 4A General Unsecured Claim under the Plan. ~~Pursuant~~
12 ~~to the Morgan Stanley Settlement Statement, Morgan Stanley asserts that it is owed \$4,029,307 on~~
13 ~~account of the Morgan Stanley Unsecured Claim. The Debtors do not stipulate to such amount and~~
14 ~~it is subject to further diligence and review~~ This treatment of the Allowed Morgan Stanley Secured
15 Claim and the Allowed Morgan Stanley Unsecured Claim shall be in full and final satisfaction of (i)
16 the Allowed Morgan Stanley Secured Claim, (ii) the Allowed Morgan Stanley Unsecured Claim,
17 and (iii) any and all Claims in respect of, arising out of, or related to the Morgan Stanley
18 Documents and Transactions.

19 **Class 3E.** Class 3E consists of the Secured Claim of Great Western Bank.
20 According to the Debtors' books and records, this Claim totals approximately \$700,000. The
21 Allowed Great Western Claim (Pavilion) shall be paid in full on the Initial Distribution Date.

22 **Class 3F.** Class 3F consists of the Secured Claim of Great Western Bank.
23 According to the Debtors' books and records, this Claim totals approximately \$700,000. The
24 Allowed Great Western Claim (Urgent Care Center) shall be paid in full on the Initial Distribution
25 Date.

26 **Class 3G.** Class 3G consists of the Secured Claim of First Financial Corporate
27 Leasing. According to the Debtors' books and records, this Claim totals approximately \$149,000,
28 which Secured Claim consists of total amounts due under, and the fair market value buyout amount

1 [of the equipment as set forth in, the aforementioned lease. The Allowed First Financial Corporate](#)
2 [Claim will be paid in full on the Distribution Date.](#)

3 (iv) Class 4: General Unsecured Claims

4 Commencing on the Initial Distribution date, Holders of Allowed Claims in Classes 4A, 4B,
5 4C, and 4D will receive a *pro rata* distribution of funds available for distribution from the Creditor
6 Trust after (a) the Reserves, (b) payment of Administrative Expenses, Priority Claims, and Tax
7 Claims not otherwise contained in the Reserve, and (c) payment on account of Allowed Class 1 and
8 Allowed Class 3 Claims. According to the Debtors' books and records, Debtors anticipate the
9 Allowed Class 4 Claims total roughly \$16.1 million.³ The Debtors anticipate that Allowed Class 4
10 Claims shall be paid in full under the Plan. Disputed claims will be paid on a *pro rata* basis from
11 the Reserve held back to account for such Disputed Claim to the extent ultimately Allowed. If
12 Holders of Allowed Claims are not paid in full on the Initial Distribution Date or upon Allowance
13 of their Claims, and cash remains after all Claims are Allowed or Disallowed, and all remaining
14 costs to wind down the bankruptcy estates are paid or arranged to be paid, an additional *pro rata*
15 distribution will be made to Holders of Allowed Claims in Classes 4A, 4B, 4C, and 4D up to the full
16 amount of their Allowed Claims, without postpetition interest.

17 [Pursuant to the APA, the cap on the Purchase Price described in Section III.C.1 of this](#)
18 [Disclosure Statement is projected to provide for payment of Allowed Class 4 Claims in full but](#)
19 [does not provide for payment of interest accruing on such Claims after the Petition Date. Section](#)
20 [502\(b\) of the Bankruptcy Code, which governs allowance of claims in bankruptcy cases, generally](#)
21 [disallows claims for post-petition interest. Thus, while the Plan is expected to provide for payment](#)
22 [of Allowed Claims in full, the Plan does not provide for payment of post-petition interest to](#)
23 [unsecured creditors.](#)

24
25 _____
26 ³ The estimated total Allowed Claims for Class 4 is (i) derived from the Schedules filed with the Court, and (ii) also
27 includes, among other things, anticipated damages arising from rejection of executory contracts and/or unexpired
28 leases. Based on the Debtors' books and records, the Debtors do not believe any unsecured claims exist in Class 4D
(General Unsecured Claims Against CGRRC). CGRRC simply owns real estate and does not otherwise generate
separate revenue or debts. However, to the extent there are unsecured claims in Class 4D, they will receive distributions
on par with Classes 4A, 4B, and 4C.

1 Bankruptcy Courts have, in limited circumstances, required payment of post-petition
2 interest in Chapter 11 cases. Pursuant to Bankruptcy Code section 726(a)(5), when a bankruptcy
3 estate administered pursuant to Chapter 7 of the Bankruptcy Code has assets available after
4 payment of expenses of administration and payment of allowed claims in full, among other things,
5 then unsecured creditors would receive payment of post-petition interest “at the legal rate” to the
6 extent funds are available. In this case, the unsecured Allowed Bond Redemption Premium Claim
7 will be paid after payment of unsecured creditors without interest and other costs and expenses,
8 because of the subordination provisions of the settlement described in Section VI.D. of this
9 Disclosure Statement. It is possible that there would be no remaining funds thereafter to pay
10 interest to holders of unsecured claims in any event.

11 The provision for payment of post-petition interest has been incorporated into requirements
12 for Chapter 11 plan confirmation pursuant to the “best interest” test in section 1129(a)(7), which
13 requires that a plan of reorganization provide a return to creditors who have not voted in favor of
14 the plan at least as much return on account of their claims as such creditor would receive in a
15 hypothetical liquidation under Chapter 7 of the Bankruptcy Code. In the present case, the
16 liquidation analysis attached as Exhibit D shows that creditors would receive substantially less than
17 their Allowed Claim amounts in a Chapter 7 liquidation. Therefore, on the facts of these Chapter
18 11 Cases, the Debtors do not believe that section 726(a)(5) would provide for post-petition interest
19 on Allowed Claims. In any event, the “legal rate” of interest accrual provided in section 726(a)(5)
20 has been interpreted to refer to the federal judgment rate. See *Onink v. Cardelucci (In re*
21 *Cardelucci*), 285 F.3d 1231, 1235-36 (9th Cir. 2002). The federal judgment rate is currently 0.12%
22 per annum. At that rate, post-petition interest would amount to less than 0.05% of a creditors
23 Allowed Claim.

24 (v) Class 5: Membership Interests

25 Class 5 Membership Interests shall be cancelled and shall not receive anything under the
26 Plan.

27 **E. Executory Contracts and Unexpired Leases**

28 **1. Executory Contracts and Unexpired Leases Assigned to Banner**

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(i) **Contracts and Leases to be Assigned**

Upon the Sale Closing, the executory contracts and unexpired leases listed on Exhibit B to the Plan (to be ~~filed with the final form of the Plan and~~ updated prior to the Confirmation Hearing with respect to any contracts or leases entered into by the Debtors after the Petition Date) shall be assumed and assigned to Banner (the “Banner Assigned Contracts”).”

(ii) **Defaults**

The cure amounts under each Banner Assigned Contract shall be the amount set forth in Exhibit B to the Plan ~~less any amounts paid but not reflected in Exhibit B during these Cases on account of amounts owing prepetition.~~ Final cure amounts under each Banner Assigned Contract shall be the amount set forth in the Confirmation Order after such notice to counterparties and opportunity for hearing as ordered by the Court. To the extent such default is monetary, the counterparty to the applicable Banner Assigned Contract shall receive payment in Cash on the Initial Distribution Date from the Creditor Trustee or as otherwise agreed between Banner and the counterparty to the contract, in an amount equal to the final cure amount less any payments made during these Chapter 11 Cases on account thereof in accordance with Bankruptcy Court approval. Upon assignment, Banner shall have no liability in respect of any default that occurred prior to the assignment.

(iii) **No Further Liability**

After assignment, neither any of the Debtors, nor the Creditor Trust, shall have any liability in respect of the Banner Assigned Contracts.

2. Assumption or Rejection of Executory Contracts and Unexpired Leases

Pursuant to §§ 365(a) and 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases that exist between the Debtors and any party that have not been previously assumed pursuant to an order of the Bankruptcy Court or are not a Banner Assigned Contract, shall be deemed rejected on the Effective Date.

3. Claims Based on Rejection of Executory Contracts or Unexpired Leases

1 With respect to Claims arising from the rejection of executory contracts or unexpired leases
2 pursuant to the Plan, the bar date to file Proofs of Claim shall be 15 days after the Effective Date
3 and all such Proofs of Claim must be filed during that time so that appropriate Reserves may be
4 calculated. Any Claim arising from the rejection of an executory contract or unexpired lease
5 pursuant to the Plan for which a Proof of Claim is not timely filed within that time period shall be
6 forever barred from assertion against the Debtors officers, directors or agents of the Debtors, the
7 Estates, its successors and assigns, or its assets and properties, unless otherwise ordered by the
8 Bankruptcy Court or as otherwise provided herein.

9 **F. Anticipated Litigation; Waiver of Avoidance Claims**

10 The Debtors do not anticipate any litigation. Pursuant to the Plan, upon the Effective Date
11 and conditioned upon the Sale Closing, all Avoidance Claims shall be deemed waived. All other
12 Causes of Action shall be assigned to the Creditor Trustee (discussed below) as the representative
13 of the Estates. Pursuant to the terms of the Plan and as discussed in more detail below, various
14 parties associated with these Cases, *i.e.*, the Released Parties (defined below), will receive releases
15 from all Causes of Action other than those related to criminal conduct, willful negligence or gross
16 misconduct.

17 Among potential Avoidance Claims that would not be pursued would be possible
18 challenges to the security interests in the Debtors' personal property securing repayment of the
19 Bonds and in the Debtors' cash. Pursuit of Avoidance Claims would result in a net reduction of
20 recoveries to unsecured creditors, even if the elements under the particular claim exist, simply due
21 to potential defenses and legal fees associated with litigating such claims.

22 Further, the Debtors made payments of approximately \$24,000,000 during the ninety days
23 prior to the Petition Date. The vast majority of these transfers were made in the ordinary course of
24 business. Any other transfers made during this period likely have other defenses under 11 U.S.C.
25 §547. However, the Debtors have not conducted an exhaustive review.

26 The Debtors believe that waiver of avoidance claims is appropriate given the extremely
27 high payouts proposed in the Plan; pursuit of such claims would create unnecessary delay and
28 expense, and could reduce ultimate recoveries.

1 **G. Feasibility and Distributions to Creditors**

2 The Bankruptcy Code requires that a debtor demonstrate that confirmation of a plan is not
3 likely to be followed by liquidation or the need for further financial reorganization unless the plan
4 calls for liquidation. The Plan calls for (i) the sale of substantially all of the Debtors' assets to
5 Banner pursuant to the terms of the executed APA, and (ii) subsequent wind-down of the Estates by
6 the Creditor Trustee. The Debtors have analyzed their ability to meet their obligations under the
7 Plan. The APA has already been executed and there has been significant progress towards a Sale
8 closing. As of March 12, 2014, all regulatory approval and waiting periods have been satisfied. The
9 parties have also received premerger clearance under Hart-Scott Rodino. The Debtors expect to get
10 to closing two weeks after the Confirmation Date. Banner has agreed, pursuant to the DIP Loan, to
11 provide the Debtors with sufficient debtor-in-possession financing to operate their businesses until
12 the estimated Sale Closing date. The Purchase Price is anticipated to be sufficient to pay all
13 Allowed Claims in these Cases in full. Therefore, the Debtors anticipate being able to make all
14 payments required under the Plan. Accordingly, the Debtors believe the Plan satisfies the
15 feasibility requirement of the Bankruptcy Code. Moreover, the Plan calls for an orderly wind-down
16 of the Estates after the Sale Closing, which, by definition, satisfies the feasibility requirement.

17 **H. Federal Income Tax Consequences to Creditors**

18 Any tax advice contained in this Disclosure Statement is not intended or written to be used,
19 and cannot be used, by any taxpayer for the purpose of avoiding tax-related penalties under the
20 Internal Revenue Code of 1986, as amended. Any tax advice contained in this Disclosure
21 Statement was written to support the promotion of the transactions described in this Disclosure
22 Statement.

23 The following discussion is not intended as a substitute for professional tax advice,
24 including the evaluation of recently enacted and pending legislation, since recent changes in the
25 federal income taxation of reorganizations under the Bankruptcy Code are complex and lack
26 authoritative interpretation. The Debtors have not received, nor will they request, a ruling from the
27 IRS as to any of the tax consequences of the Plan with respect to Holders of Claims. The Debtors
28 assume no responsibility for the tax effect that Confirmation and receipt of any distribution under

1 the Plan may have on any given creditor or other party in interest. The brevity of the following
2 discussion requires omission of matters that might affect one or more Holders of Claims against the
3 Debtors depending upon their circumstances. **Accordingly, the Debtors recommend that**
4 **Creditors and other parties in interest consult with their own tax advisors concerning the**
5 **federal, state and local tax consequences of the Plan.**

6 Creditors may be required to report income or may be entitled to a deduction as a result of
7 implementation of the Plan.

8 To the extent a Creditor receives, or expects to receive, less pursuant to the Plan than the
9 Creditor's basis in the claim to which such amount relates, the Creditor may be permitted to claim a
10 bad debt deduction. The amount, timing and character of the deduction will depend, among other
11 things, upon the Creditor's tax accounting method for bad debts, the Creditor's tax status, the
12 nature of the Creditor's claim, whether the creditor receives consideration in more than one year,
13 and whether the creditor has previously taken a bad debt deduction or worthless security deduction
14 with respect to the Creditor's claim. If the debt is not business related, a deduction is only available
15 if the debt is worthless. A cash basis taxpayer can deduct a bad debt only if an actual cash loss has
16 been sustained or if the amount deducted was included in income. All accrual-basis taxpayers
17 must use the specific charge-off method to deduct business bad debts.

18 To the extent that a Creditor receives payment pursuant to the Plan in an amount in excess
19 of the Creditor's adjusted tax basis in the claim to which payment relates, the excess will be treated
20 as income or gain to the Creditor. A Creditor not previously required to include in its taxable
21 income any accrued but unpaid interest on a claim may be treated as receiving taxable interest, to
22 the extent the amount it receives pursuant to the Plan is allocable to such accrued but unpaid
23 interest. A Creditor previously required to include in its taxable income any accrued but unpaid
24 interest on a claim may be entitled to recognize a deductible loss, to the extent the amount of
25 interest actually received by the Creditor is less than the amount of interest taken into income by the
26 Creditor.

1 IV. THE CREDITOR TRUST

2 A. Creditor Trust Agreement

3 The Plan provides for the formation of a Creditor Trust as of the Effective Date, which shall
4 be governed by the Creditor Trust Agreement substantially in the form filed with a Plan
5 Supplement. The Creditor Trust shall receive all assets of the Debtors' Estates, excluding
6 Transferred Assets, but including the Sale Proceeds, net of payment of the Allowed Bondholder
7 Claim, and any Excluded Assets under the APA. The Creditor Trustee shall receive the Sale
8 Proceeds free and clear of liens, claims and encumbrances except for funds to be held in the
9 Secured Claims Reserve.

10 B. Appointment of Creditor Trustee

11 Scott Davis, a Partner at Grant Thornton LLP, shall be appointed as the Creditor Trustee.
12 Mr. Davis' professional bio is attached as Exhibit C to this Disclosure Statement.

13 C. Powers and Duties of the Disbursing Agent

14 The Plan provides that the Creditor Trustee shall have the following powers and duties:

- 15 1. To take control of, preserve, and convert to Cash property of the Estates,
16 subject to the terms of the Plan;
 - 17 2. To investigate, prosecute and/or abandon all Causes of Action belonging to
18 or assertible by the Estates, excluding all Avoidance Claims (it being expected that the Creditor
19 Trustee would only bring a claim or Cause of Action after careful consideration of the costs and
20 benefits, in light of the distributions otherwise to be made under the Plan);
 - 21 3. To review and object to Claims filed against the Debtors;
 - 22 4. To compromise all disputes, including all Causes of Action and Objections
23 to Claims;
 - 24 5. To make distributions on account of all Allowed Claims consistent with the
25 terms of the Plan, and if funds remain after treatment of all Allowed Claims in accordance with the
26 Plan and satisfaction or reservation for all wind-down expenses, return the excess funds to Banner
27 in accordance with the APA;
- 28

1 6. To retain Persons and professionals to assist in carrying out the powers and
2 duties enumerated pursuant to the Plan;

3 7. To enter into contracts as necessary to assist in carrying out the powers and
4 duties enumerated pursuant to the Plan;

5 8. To hire employees and/or terminate current employees of the Debtors;

6 9. To pay expenses incurred in carrying out the powers and duties enumerated
7 pursuant to the Plan, including Professional Fees incurred after the Effective Date;

8 10. To take all necessary actions to ensure that the corporate existence of the
9 Debtors remains in good standing until entry of a final decree closing the Chapter 11 Cases;

10 11. To open and maintain bank accounts and deposit funds and draw checks and
11 make disbursements in accordance with the Plan;

12 12. In general, without in any manner limiting any of the foregoing, to deal with
13 the assets of the Estates or any part or parts thereof in all other ways as would be lawful for any
14 Person owning the same to deal therewith; provided, however, that the investment powers of the
15 Debtors, other than those reasonably necessary to maintain the value of the Debtors' assets and to
16 further the liquidating purpose, are limited to the power to invest in demand and time deposits, such
17 as short term certificates of deposit, in banks and other savings institutions, or other temporary,
18 liquid investments, such as United States Treasury Bills; and

19 13. At the appropriate time, to ask the Bankruptcy Court to enter the final
20 decree.

21 **D. Corporate Authority**

22 Under the Plan, from and after the Sale Closing, the Creditor Trustee will have all corporate
23 authority for each of the Debtors entities to execute any documents or instruments necessary or
24 appropriate post-Sale Closing and to take any other corporate action to wind up and dissolve the
25 corporate entities.

26 **E. Compensation of Creditor Trustee and Professionals Retained by Him**

27 Under the Plan, the Creditor Trustee and any professionals retained by the Creditor Trustee
28 are entitled to reasonable compensation at their standard rates. When seeking payment, the

1 Creditor Trustee or the relevant professional shall provide a copy of the statement to Banner and the
2 Master Trustee (if any amounts remain outstanding on the Bonds). If no written objection to the
3 payment request is received within 10 days, then the sum requested shall be promptly paid. Any
4 objection shall specify the amount objected to and reasons. If an objection is made, the undisputed
5 amount shall be promptly paid. If the parties are unable to resolve any remaining disputes, the
6 Bankruptcy Court shall resolve the dispute upon notice and a hearing.

7 **F. Post-Effective Date Statutory Fees**

8 All fees payable pursuant to 28 U.S.C. § 1930 incurred after the Effective Date shall be paid
9 in accordance with applicable law.

10 **G. Post Confirmation Reports**

11 The Creditor Trustee shall submit post-confirmation reports in accordance with applicable
12 law.

13 **H. Exculpation**

14 The Plan provides that neither the Creditor Trustee nor its designees, retained professionals
15 or any duly designated agent or representative shall be liable for anything other than such Person's
16 own acts as shall constitute willful misconduct or gross negligence in the performance (or
17 nonperformance) of its duties, or acts contrary to the express terms of the Plan. The Creditor
18 Trustee may, in connection with the performance of its functions, consult with counsel, accountants
19 and its agents, and may reasonably rely upon advice or opinions received in the course of such
20 consultation. If the Creditor Trustee determines not to consult with counsel, accountants or its
21 agents, such determination shall not in itself be deemed to impose any liability on the Creditor
22 Trustee, or its members and/or its designees. The Creditor Trust shall indemnify the Creditor
23 Trustee for any and all damages, fees and expenses incurred in connection with these Cases or the
24 Plan; except that the Creditor Trustee shall not be indemnified from damages, fees or expenses
25 arising from its gross negligence or willful misconduct.

26 **V. PROCEDURES FOR RESOLVING AND TREATING CONTESTED CLAIMS**

27 **A. Term of ~~Bankruptcy Injunction or Stay~~ [the Automatic Stay](#)**

1 ~~All injunctions or stays~~The automatic stay provided for ~~in the Chapter 11 Cases~~ under §§
2 ~~105 or section~~ 362 of the Bankruptcy Code, ~~or otherwise, and in existence on the Confirmation~~
3 ~~Date~~, shall remain in full force and effect until the earliest of the time these Cases are closed or
4 dismissed, as provided under section 362(c)(2) of the Bankruptcy Code.

5 **B. Objections to Claims and Settlements**

6 After the Effective Date, Objections to Claims may be made, and Objections to Claims
7 made previous thereto shall be pursued, only by the Creditor Trustee at his sole discretion. After
8 the Effective Date, the Creditor Trustee may settle any Disputed Claim where the proposed
9 Allowed Claim is to be less than \$25,000 without notice and a hearing and without an order of the
10 Bankruptcy Court. All other settlements shall be subject to notice and a hearing pursuant to §
11 102(1) of the Bankruptcy Code and a Final Order of the Bankruptcy Court approving the
12 settlement.

13 **C. Reserves for Disputed Claims**

14 If any Claim is a Disputed Claim, no distribution shall be made on account of such Claim
15 unless and until said Disputed Claim becomes an Allowed Claim. In the event a Distribution is
16 made while there is a Disputed Claim, the Distribution that would be paid on account of the
17 Disputed Claim shall be withheld and remain in the a bank account maintained in compliance with
18 Article VII of the Plan until the Claim is Allowed or Disallowed. If the Claim is Allowed, the
19 Holder of the Allowed Claim will receive its withheld Distribution.

20 **D. Other Provisions**

21 Additional provisions concerning Objections to Claims are described further in Article VII
22 of the Plan.

23 **VI. MISCELLANEOUS PLAN PROVISIONS**

24 **A. Waiver of Avoidance Claims**

25 The Plan provides that, upon the Effective Date and conditioned upon Sale Closing,
26 Avoidance Claims shall be deemed waived and abandoned.

1 **B. Committee Dissolved**

2 The Committee, if one is appointed, shall be dissolved automatically and its members shall
3 be deemed released of all their duties, responsibilities and obligations in connection with these
4 Cases and the Plan.

5 **C. Discharge**

6 Except as otherwise provided in the Plan, and irrespective of any prior orders of the
7 Bankruptcy Court or any other court of competent jurisdiction, effective as of the Confirmation
8 Date: (1) the rights afforded in the Plan and the treatment of all Claims and Membership Interests in
9 the Plan shall be in exchange for and in complete satisfaction, discharge and release of all Claims
10 and Membership Interests of any nature whatsoever, including any interest accrued on such Claims
11 from and after the Petition Date, or any of its assets, property or its Estates; (2) the Plan shall bind
12 all Holders of Claims and Membership Interests, regardless of whether any such Holders failed to
13 vote to accept or to reject the Plan or voted to reject the Plan; and (3) all Claims against and
14 Membership Interests in the Debtors, and the Debtors in its capacity as debtor-in-possession, shall
15 be satisfied, discharged and released in full, and the Debtors' liability with respect thereto shall be
16 extinguished completely, including, without limitation, any liability of the kind specified under §
17 502(g) of the Bankruptcy Code; *provided, however*, that nothing in the Plan shall discharge any
18 liabilities of the Debtors arising after the Confirmation Date or that is not otherwise a Claim within
19 the meaning of § 101(5) of the Bankruptcy Code.

20 **D. Approval of Settlements and Releases**

21 In consideration of the subordination of the Allowed Bond Redemption Premium Claim and
22 other consideration and benefits provided in the Chapter 11 Cases and under the Plan, the treatment
23 of the Class 1 Allowed Bond-Related Claims, including releases and exculpations provided under
24 the Plan, constitute a good-faith compromise and settlement of the Estates' Causes of Action and
25 any and all Claims and Liens of the Bond Trustee, the Master Trustee, and the beneficial Holders of
26 the Bonds, respectively. Entry of the Confirmation Order would constitute the Bankruptcy Court's
27 approval of such compromise and settlement of all Causes of Action, and any and all Claims and
28 Liens of the Bond Trustee, the Master Trustee, and the beneficial Holders of the Bonds pursuant to

1 the Plan as well as a finding that such settlement is fair, reasonable and in the best interest of the
2 Debtors and their Estates.

3 **E. Exculpation**

4 The Plan provides for the exculpation of ~~ertain~~the following parties (collectively, the
5 “Exculpated Parties”); ~~including~~: (i) the Debtors; (ii) the Master Trustee in any capacity; (iii) the
6 Bond Trustee in any capacity; (iv) the beneficial Holders of the Bonds; (v) the members of the
7 Committee, if one is appointed; (vi) Banner; and (vii) the current and former officers, directors,
8 members, managers, employees, attorneys, advisors and any other Professionals, each in their
9 respective capacities as such, of each of the foregoing.

10 Section 13.04 of the Plan provides that none of the Exculpated Parties shall have or incur
11 any liability to any Person for any act or omission in connection with, related to, or arising out of
12 these Cases, including, without limitation, the preparation, formulation or consummation of the
13 Plan, the Disclosure Statement, or any contract, instrument, release or other agreement or document
14 entered into during the Chapter 11 Cases or otherwise created in connection with the Plan, the
15 pursuit of confirmation of the Plan, or the administration of the Plan or the property to be
16 distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects,
17 the Exculpated Parties shall be entitled to rely upon the advice of counsel with respect to their
18 duties and responsibilities under the Plan.

19 Exculpation provisions, such as this one, are relatively common in Chapter 11 plans and
20 have been approved by the Bankruptcy Court and others in the Ninth Circuit. See, e.g., *In re*
21 *Transwest Resort Prop., Inc.*, Case No. 10-37134 (Bankr. D. Ariz. Dec. 30, 2011); *In re W.*
22 *Asbestos Co.*, 313 B.R. 832, 846-47 (Bankr. N.D. Cal. 2003); see also *In re PWS Holding Corp.*,
23 228 F.3d 224, 245-46 (3d Cir. 2000) (affirming order confirming plan that contained provisions,
24 similar to those in the Plan, exculpating and releasing claims against the debtors, the reorganized
25 debtors, the creditors’ committee, the creditors’ representative and their respective members,
26 directors, officers and professionals, finding such release provisions permissible, and stating that
27 such release provisions are “a commonplace provision in Chapter 11 plans”) (emphasis added).

1 The Debtors propose the exculpation provision because it furthers the purpose of finality
2 and reducing variability of outcomes to creditors. Each of the Exculpated Parties made significant
3 contributions prior to and during these Cases to achieve a Plan that provides for creditors to likely
4 be paid in full or very close. The exculpation provision takes effect only if the Plan is confirmed
5 and is consistent with acceptance and approval of the general Plan. Moreover, the exculpation
6 provision benefits the estate and creditors because many of the Exculpated Parties may have rights
7 of indemnification against the Debtors' estates in the event such actions were permitted and
8 brought.

9 **F. Releases**

10 The Plan provides for the release of claims by the Debtors against the following ~~releases of~~
11 ~~certain~~ parties (collectively, the "Released Parties"); ~~including:~~ (i) the ~~Debtors;~~ (ii) the Master
12 Trustee in any capacity; ~~(iii)~~ the Bond Trustee in any capacity; ~~(iv)~~ the beneficial Holders of
13 the Bonds; ~~(v)~~ the members of the Committee, if one is appointed; ~~(vi)~~ Banner; and ~~(vii)~~ the
14 current and former officers, directors, members, managers, employees, attorneys, advisors and any
15 other Professionals, each in their respective capacities as such, ~~of each of the foregoing.~~ The
16 specific release in the Plan is as follows:

17 **RELEASES BY THE DEBTORS.** ON THE EFFECTIVE DATE, FOR GOOD AND
18 VALUABLE CONSIDERATION AND IN RETURN FOR THE COMPROMISES EMBODIED
19 IN THE PLAN, THE RECEIPT AND ADEQUACY OF WHICH ARE HEREBY CONFIRMED,
20 THE DEBTORS, ON BEHALF OF THEMSELVES AND THEIR ESTATES, THE
21 REORGANIZED DEBTORS, AND THE CREDITOR TRUSTEE, SHALL BE DEEMED TO
22 HAVE IRREVOCABLY RELEASED ANY AND ALL CLAIMS AND CAUSES OF ACTION,
23 INCLUDING AVOIDANCE CLAIMS, AGAINST THE RELEASED PARTIES ARISING
24 PRIOR TO THE EFFECTIVE DATE.

25 ~~**RELEASE OF THE DEBTORS.** ADDITIONALLY, ON THE EFFECTIVE DATE, IN~~
26 ~~CONSIDERATION FOR THE OBLIGATIONS OF THE DEBTORS AND THE CREDITOR~~
27 ~~TRUSTEE UNDER THIS PLAN AND THE DISTRIBUTIONS TO BE DELIVERED IN~~
28 ~~CONNECTION WITH THE PLAN, ALL HOLDERS OF CLAIMS AGAINST OR INTERESTS~~

1 ~~IN THE DEBTORS SHALL BE PERMANENTLY ENJOINED FROM BRINGING ANY~~
2 ~~ACTION AGAINST THE DEBTORS AND ALL OF THEIR RESPECTIVE DIRECTORS,~~
3 ~~OFFICERS, AGENTS, FINANCIAL ADVISORS, ATTORNEYS, OTHER PROFESSIONALS,~~
4 ~~EMPLOYEES, PARTNERS, MEMBERS, SUBSIDIARIES, MANAGERS, AFFILIATES AND~~
5 ~~REPRESENTATIVES SERVING IN SUCH CAPACITY AS OF THE CONFIRMATION DATE,~~
6 ~~AND THEIR RESPECTIVE PROPERTY, IN RESPECT OF ANY CLAIMS, OBLIGATIONS,~~
7 ~~RIGHTS, CAUSES OF ACTION, DEMANDS, SUITS, PROCEEDINGS, AND LIABILITIES~~
8 ~~RELATED IN ANY WAY TO THE DEBTORS, THE CHAPTER 11 CASES, THE APA, THE~~
9 ~~DIP LOAN, THE BOND DOCUMENTS, THE PLAN AND THIS DISCLOSURE STATEMENT,~~
10 ~~AND ANY AGREEMENT OR DOCUMENT RELATING TO THE FOREGOING, OR THE~~
11 ~~NEGOTIATION, FORMULATION OR PREPARATION OF THE PLAN, OTHER THAN~~
12 ~~CLAIMS ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION OF THAT PARTY~~
13 ~~CONSTITUTING CRIMINAL CONDUCT, WILLFUL MISCONDUCT OR GROSS~~
14 ~~NEGLIGENCE; PROVIDED, HOWEVER, THAT THE PLAN SHALL NOT RELEASE THE~~
15 ~~DEBTORS AND THE REORGANIZED DEBTORS FROM ANY CAUSE OF ACTION HELD~~
16 ~~BY A GOVERNMENTAL ENTITY EXISTING AS OF THE EFFECTIVE DATE BASED ON (I)~~
17 ~~THE INTERNAL REVENUE CODE OR OTHER DOMESTIC STATE, CITY, OR MUNICIPAL~~
18 ~~TAX CODE, (II) THE ENVIRONMENTAL LAWS OF THE UNITED STATES OR ANY~~
19 ~~DOMESTIC STATE, CITY, OR MUNICIPALITY, (III) ANY CRIMINAL LAWS OF THE~~
20 ~~UNITED STATES OR ANY DOMESTIC STATE, CITY, OR MUNICIPALITY, (IV) THE~~
21 ~~SECURITIES AND EXCHANGE ACT OF 1934 (AS NOW IN EFFECT OR HEREAFTER~~
22 ~~AMENDED), THE SECURITIES ACT OF 1933 (AS NOW IN EFFECT OR HEREAFTER~~
23 ~~AMENDED), OR OTHER SECURITIES LAWS OF THE UNITED STATES OR ANY~~
24 ~~DOMESTIC STATE, CITY OR MUNICIPALITY, (V) THE EMPLOYEE RETIREMENT~~
25 ~~INCOME SECURITY ACT OF 1974, AS AMENDED, OR (VI) THE LAWS AND~~
26 ~~REGULATIONS OF THE BUREAU OF CUSTOMS AND BORDER PROTECTION OF THE~~
27 ~~UNITED STATES DEPARTMENT OF HOMELAND SECURITY.~~

1 The Debtors believe ~~these releases are not only “market” but also appropriate given the~~
2 ~~facts of these cases and the anticipated 100% payment to all Holders of Allowed Claims.~~
3 ~~Accordingly, expending resources to pursue causes of action, to the extent they exist, would only~~
4 ~~increase expenses without commensurate, if any, benefit to the estates. The basis and benefit to the~~
5 ~~estates for the settlement and releases with the Bond Trustee, the Master Trustee, and the beneficial~~
6 ~~Holders of the Bonds is set forth above. With respect to the other Released Parties, based on the~~
7 ~~Debtors’ books and records, the Debtors have no reason to believe that causes of action exist with~~
8 ~~respect to such Released Parties.~~ that this release of claims against the Released Parties is
9 necessary and appropriate, especially given the unique facts of these Cases. The causes of action
10 being released are property of the Debtors’ estates under section 541 of the Bankruptcy and their
11 release is authorized under section 1123(b)(3)(A) of the Bankruptcy Code. Here, the Released
12 Parties made significant contributions to these Cases and to a Plan that is anticipated to pay
13 creditors in full. Released were a negotiated deal point for many of the Released Parties. See, e.g.,
14 Disclosure Statement § VI.D.

15 Moreover, it is the Debtors’ business judgment that there would be nominal, if any, benefit
16 to creditors and the estates in preserving and pursuing causes of action against the Released Parties.
17 Among other reasons, that is why Article X of the Plan provides that Avoidance Actions are
18 deemed waived and abandoned as of the Effective Date. Moreover, because the Plan is anticipated
19 to pay creditors in full, creditors would unlikely receive any benefit from the pursuit of such causes
20 of action. To the contrary, the Debtors believe that investigating and pursuing these causes of
21 action could distract from the goal of a quick sale and distribution to creditors and would lead to
22 increased administrative expense claims, which, in turn, could actually reduce overall recoveries
23 for creditors. Moreover, the Released Parties might assert counterclaims or indemnification claims
24 in response to such litigation, which could further deplete funds otherwise available for distribution
25 to creditors.

26 **G. Other Provisions**

27 Creditors and other parties in interest are directed to the Plan with respect to the provisions
28 that are not specifically discussed in this Disclosure Statement.

VII. RISK FACTORS

As with any plan or other financial transaction, there are certain risk factors which must be considered. It should be noted that all risk factors cannot be anticipated, that some events will develop in ways that were not foreseen and that many or all of the assumptions that have been used in connection with this Disclosure Statement and the Plan will not be realized exactly as assumed. Some or all of such variations may be material. While every effort has been made to be reasonable in this regard, there can be no assurance that subsequent events will bear out the analysis set forth herein. Not all possible risks can be, or are discussed in this Disclosure Statement. Under the Plan, some of the principal risk that Holders of Claims should be aware of, in the Debtors' view, are as follows:

- Risk Related to the Sale Closing. [Banner's right to terminate the APA based upon results of due diligence expired on February 28, 2014, and Banner is proceeding towards the Sale closing under the APA.](#) Banner's commitment to purchase is subject to, among other things, state and federal regulatory approval. The Federal Trade Commission has completed its review of the parties' required submission under the Hart-Scott-Rodino Act and has determined not to challenge the sale. [The Arizona Attorney General has also completed and closed its premerger investigation.](#) The Day Act hearing, which provided for a state regulatory review process, was completed on March 13, 2014 and ~~parties are awaiting a report the~~ [required report from the hearing was issued March 17, 2014. The Arizona Corporate Commission has confirmed receipt of the summary report of the public hearing, thus satisfying A.R.S. §10-11253.](#) Banner is financially strong and its ability to perform is not considered to be a material risk.
- Dilution of Distributions Based on Allowed Claims The Claims Bar Date has not yet passed and to the extent there are additional claims filed before the Bar Date, the amount of Allowed Claims may increase, subjecting the Holders of Allowed Claims to the risk of dilution. Additionally, no final determination has been made as to which Claims will be Disputed Claims, and it is possible that the number of

1 Disputed Claims may be material and that the amounts allowed in respect of such
2 Disputed Claims may be materially in excess of the estimates of Allowed Claims
3 used to develop the Plan and this Disclosure Statement. The Holders of Allowed
4 Claims are subject to the risk of dilution if the amount of actual Allowed Claims
5 exceeds such estimates. Accordingly, distributions to the Holders of Allowed
6 Claims are at risk of being adversely affected by the total amount of Allowed
7 Claims. Factors that may cause Allowed Claims to exceed projected amounts
8 include claims arising from contract rejections, unknown claims and liabilities, or
9 differences in books and records between the Debtor and the relevant Creditor.

- 10 • Costs of Administering the Estate The disbursement of the proceeds of any
11 litigation recoveries will require certain administrative costs that may vary based on
12 a variety of factors. Such administrative costs cannot be predicted with certainty and
13 will be paid from cash on hand. Accordingly, such expenses may affect recoveries
14 under the Plan, in particular if the Creditor Trustee elects to pursue any litigation.
- 15 • Hospital Operations. The estimated payouts on Allowed Claims assumes that the
16 Debtors will operate the hospital at certain levels of profit and loss. If the Debtors'
17 performance is below those projections, return to Creditors could be diminished.
- 18 • Adjustments to Purchase Price. The APA provides for certain adjustments to the
19 Purchase Price. If these adjustments reduce cash proceeds of sale, payouts to
20 Creditors would be affected accordingly.

21 **VIII. ALTERNATIVES AND POTENTIAL PLAN RECOVERY**

22 **A. Chapter 7 Liquidation**

23 An alternative to confirmation of the Plan would be liquidation of the Debtors' assets by a
24 trustee appointed in a case under Chapter 7 of the Bankruptcy Code. In that event, a trustee would
25 be appointed to liquidate the assets of the Debtors for distribution to holders of Claims and
26 Membership Interests in accordance with the priorities established by the Bankruptcy Code. The
27
28

1 Chapter 7 trustee would make all of his or her own decisions with respect to the liquidation of the
2 Estate, the hiring of professionals, the pursuit of any claims or litigation, and the payment or
3 objection to Claims. If a Chapter 7 trustee were appointed, the Chapter 7 trustee would be paid
4 pursuant to the provisions of § 326(a) of the Bankruptcy Code, which would add an additional
5 Administrative Expense Claim.
6

7 Under § 1129(a)(7), a debtor’s plan must provide that creditors receive no less under the
8 plan that they would in a liquidation scenario under Chapter 7. Such analysis is unusually
9 hypothetical in these Cases because the Debtors are non-profit entities and not “moneyed, business,
10 or commercial corporation[s]” and, as such, their Cases cannot be converted to Chapter 7 without
11 their consent. 11 U.S.C. §1112(c). *See also In re Hyperion Foundation, Inc.*, 2009 WL 2477392
12 (holding that 11 U.S.C. § 1112(c) bars conversion of non-profit debtor with the charitable purpose
13 of operating nursing homes and related healthcare facilities); *In re Hospital de Damas, Inc.*, 2012
14 WL 1190651 at n.1 (noting that a non-profit hospital is not eligible to be converted to Chapter 7
15 under 11 U.S.C. § 1112(c)).
16

17 Nevertheless, Debtors have included a hypothetical liquidation analysis attached hereto as
18 Exhibit D (the “Liquidation Analysis”). As more fully demonstrated in the Liquidation Analysis,
19 the Debtors believe that Confirmation of the Plan will provide each holder of a Claim entitled to
20 receive a distribution under the Plan with a recovery that is not less than it would receive if the
21 Debtors were liquidated under Chapter 7 of the Bankruptcy Code. For instance, the average
22 recovery for Secured Claims under the Plan is 100%, whereas under a liquidation scenario Secured
23 Claims are estimated to recover anywhere from 13.3% to 39.2%. Similarly, Unsecured Claims are
24 estimated to recover on average 100% under the Plan and 0% under a liquidation scenario.
25

26 The Debtors submit that the Banner Transaction pursuant to the terms of the Plan is in the
27 best interest of Creditors. A Chapter 7 trustee would not be able to operate a hospital. As a result,
28

1 the Banner Transaction would be unavailable and assets would be sold at liquidation values. The
2 Banner Transaction provides value far in excess of liquidation values.

3 **B. Alternative Plan**

4 If the Plan is not confirmed as to one or more Debtors, one or more Debtors (or if the
5 Debtors' exclusive period in which to file a plan or plan of reorganization has expired, any other
6 party in interest) may be entitled to file a different plan. However, the Debtors believe that the
7 proposed Plan provides holders of Claims and Interests with the greatest value possible under the
8 circumstances. The Debtors believe that any subsequently-proposed plan would likely provide a
9 less favorable treatment than the Plan by further delaying distribution, resulting in additional
10 expense. Moreover, the Debtors do not believe that they can propose an alternative plan without
11 additional capital, no known source of which is available, and for other reasons believe that a sale is
12 in the best interests of creditors and the community the Debtors serve. A sale pursuant to an
13 alternative plan would be subject to the risks described in Section VII of the Disclosure Statement
14 under "Risks Related to Sale Closing."

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17 **C. Dismissal of Bankruptcy Case**

18 The Debtors do not believe that dismissal of the Bankruptcy Case would be to the advantage
19 of parties in interest.
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March ~~14~~, 21, 2014

Debtors and Debtors-in-Possession

By: _____ s/
Title: Chief Executive Officer

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ATTACHMENTS TO AMENDED DISCLOSURE STATEMENT

EXHIBIT A: The Plan

EXHIBIT B: The Budget

EXHIBIT C: Professional Bio of Scott Davis

EXHIBIT D: Liquidation Analysis

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