



# TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council **Date:** March 27, 2018

**From:** Douglas B. Robertson **Item No:** 7  
Town Manager

**Subject:** ADOPT RESOLUTION NO. 2018-08 - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE TOWN OF APPLE VALLEY AND PROVIDENCE ST. JOSEPH HEALTH ST. MARY MEDICAL CENTER REGARDING ITS PARTICIPATION IN THE PUBLIC HEALTH SERVICES ACT 340B PROGRAM.

**T.M. Approval:** \_\_\_\_\_ **Budgeted Item:**  Yes  No  N/A

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## RECOMMENDED ACTION:

That the Town Council adopt Resolution No. 2018-08, A Resolution of the Town Council of the Town of Apple Valley Approving a Memorandum of Understanding (MOU) Between the Town of Apple Valley and Providence St. Joseph Health St. Mary Medical Center Regarding its Participation in the Public Health Services Act 340B Program; Authorizing the Town Manager to Execute Said MOU on Behalf of the Town and to Undertake Such Tasks and Execute Such Documents as May be Required to Implement the Terms of Said MOU; and Setting Forth Other Details Related Thereto.

## SUMMARY:

Providence St. Joseph Health St. Mary Medical Center (St. Mary) is a private not-for-profit hospital that has represented to the Town that it provides a disproportionate share of healthcare services to the Medicaid population, in addition to supporting programs that benefit the indigent, uninsured or underinsured population in the State of California. As a benefit to the community, St. Mary would like to participate in the 340B Drug Pricing Program that offers discounted prices on covered outpatient drugs. To participate in the 340B Program, St. Mary must enter into an agreement with the Town of Apple Valley stating its commitment to provide health care services to low-income individuals who are neither entitled to benefits under Title XVIII of the Social Security Act nor eligible for assistance under the State plan of Title XIX under this act.

## BACKGROUND:

The 340B Drug Pricing Program allows certain hospitals and other health care providers (“covered entities”) to obtain discounted prices on “covered outpatient drugs” (prescription drugs and biologics other than vaccines) from drug manufacturers. Manufacturers must offer 340B discounts to covered entities to have their drugs covered under Medicaid. The Health Resources and Services Administration (HRSA), which manages the program, estimates that covered entities have historically saved \$3.8 billion on outpatient drugs through the program. According to HRSA,

the intent of the 340B program is to allow certain providers to stretch scarce federal resources as far as possible to provide more care to more patients.

To be eligible for 340B discounted prices, a covered outpatient drug must be provided by a covered entity to its patients. Several types of hospitals as well as clinics that receive certain federal grants from the Department of Health and Human Services may enroll in the program as covered entities. Eligible hospitals include Disproportionate Share Hospitals (DSH), Critical Access Hospitals (CAH), rural referral centers, sole community hospitals, children's hospitals, and freestanding cancer hospitals. Each eligible hospital must be owned by a state or local government, be a public or nonprofit hospital that is formally delegated governmental powers by a state or local government, or be a nonprofit hospital under contract with a state or local government to provide services to low-income patients who are not eligible for Medicare or Medicaid.

To participate in the program, a Memorandum of Understanding (MOU) is needed solidifying the commitment of St. Mary to providing healthcare to indigent, uninsured and underinsured residents and the Town's acknowledgement that the healthcare services provided by St. Mary are in the public interest and are being provided to individuals who are not entitled to benefits under Title XVIII of the Social Security Act or eligible for assistance under any State plan pursuant to Title XIX of the Social Security Act. The Town further acknowledges that St. Mary is providing these services at no reimbursement or for considerably less than full reimbursement from its patients.

Based on the foregoing, staff recommends adoption of the form motion.

**FISCAL IMPACT:**

None

**ATTACHMENT:**

Memorandum of Understanding

**RESOLUTION NO. 2018-08**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE TOWN OF APPLE VALLEY AND PROVIDENCE ST. JOSEPH HEALTH ST. MARY MEDICAL CENTER REGARDING ITS PARTICIPATION IN THE PUBLIC HEALTH SERVICES ACT 340B PROGRAM; AUTHORIZING THE TOWN MANAGER TO EXECUTE SAID MOU ON BEHALF OF THE TOWN AND TO UNDERTAKE SUCH TASKS AND EXECUTE SUCH DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT THE TERMS OF SAID MOU; AND SETTING FORTH OTHER DETAILS RELATED THERETO.**

**WHEREAS**, Providence St. Joseph Health St. Mary Medical Center (St. Mary's) is a private not-for-profit hospital that has represented to the Town that it provides a disproportionate share of healthcare services to the Medicaid population in addition to supporting programs that benefit the indigent, uninsured or underinsured population in the State of California; and

**WHEREAS**, St. Mary's is desirous of participating in the drug discount program established under Section 340B of the Public Health Services Act (the "**340B Program**"); and

**WHEREAS**, in order to participate in the 340B Program, St. Mary's must enter into an agreement with a unit of the local government pursuant to which St. Mary's commits to provide health care services to low-income individuals who are neither entitled to benefits under Title XVIII of the Social Security Act nor eligible for assistance under the State plan of Title XIX under this act; and

**WHEREAS**, St. Mary's desires to make such a formal commitment to the Town and the Town is amenable to receive such commitment on behalf of the citizens of Town; and

**WHEREAS**, St. Mary's and the Town have entered into a Memorandum of Understanding (MOU), setting forth their understandings and agreements in regard to such commitment.

**NOW, THEREFORE, BE IT RESOLVED WITH THE TOWN COUNCIL AS FOLLOWS:**

1. The Memorandum of Understanding between the Town of Apple Valley and Providence St. Joseph Health St. Mary Medical Center, a copy of which is attached hereto and incorporated herein by this reference, is hereby approved.
2. The Town Manager is authorized to execute said Memorandum of Understanding on behalf of the Town and the Town Clerk to attest thereto.
3. The Town Manager is further authorized to undertake such tasks and execute such documents as may be required to implement the terms of the Memorandum of Understanding.

PASSED APPROVED AND ADOPTED this 27<sup>th</sup> day of March 2018.

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Mayor

Attest:

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Town Clerk

**Providence St. Joseph Health St. Mary Medical Center**

**340B DRUG PRICING PROGRAM**

**MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 27<sup>th</sup> day of March, 2018, between the undersigned representatives of the Town of Apple Valley, a State municipal corporation (hereinafter referred to as "Town"), located at 14955 Dale Evans Parkway, Apple Valley, California, 92307 and Providence St Joseph Health, St. Mary Medical Center (hereinafter referred to as "HOSPITAL"), a non-profit corporation organized and existing under the laws of the State of California, located at 18300 Highway 18 Apple Valley, California, 92307.

**RECITALS:**

WHEREAS, Hospital is a California not-for-profit hospital that provides healthcare services to the Medicare and Medicaid populations in addition to supporting many programs that benefit the indigent, uninsured or underinsured population in Apple Valley, CA and surrounding communities;

WHEREAS, Hospital desires to make such formal commitment to Town; and

WHEREAS, Town agrees to accept such commitment on behalf of the citizens of Town, State and surrounding communities.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, it is mutually agreed by and between the parties of this MOU, as follows:

1. **COMMITMENT OF HOSPITAL TO PROVIDE INDIGENT CARE:** During the term of this MOU, Hospital agrees to continue its historical commitment to the provision of healthcare to indigent, uninsured and underinsured residents by adhering to the Hospital's charity policy. Pursuant to its commitment to continue to provide indigent care, it is Hospital's intention that indigent care provided during the term of this MOU will be consistent with its historical commitment. In any event, Hospital will ensure that all patients presenting to its Emergency Department continue to receive necessary care, as required by law, regardless of ability to pay.

2. **ACCEPTANCE AND ACKNOWLEDGMENTS OF TOWN:**

(a) Town accepts the commitment of Hospital set forth above;

(b) Town hereby acknowledges that the healthcare services provided by Hospital hereunder are in the public interest and are being provided to individuals who are not entitled to benefits under Title XVIII of the Social Security Act or eligible for assistance under any State plan pursuant to Title XIX of the Social Security Act; and

(c) Town acknowledges that Hospital is providing these services at no

reimbursement or for considerably less than full reimbursement from the patients.

3. REPRESENTING OF HOSPITAL: Hospital represents that as of the date hereof:
- (a) Hospital constitutes a separately licensed facility that is owned and operated by Providence St. Joseph Health, a nonprofit corporation duly organized and validly existing in good standing under the laws of the State of California, with the corporate power and authority to enter into and perform its obligations under this MOU; and
  - (b) Hospital is a tax-exempt corporation under Section 501 (c)(3) of the Internal Revenue Code of the United States, as amended, and under applicable laws of the State of California.

4. TERM AND TERMINATION: The term of this MOU shall commence on the date set forth above and shall continue until terminated by either party upon not less than sixty (60) days prior written notice to the other.

5. NOTICE: All notices required or permitted to be given under this MOU shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows:

SENT TO TOWN: Town of Apple Valley  
Douglas B. Robertson, Town Manager  
14975 Dale Evans Parkway, Apple Valley, CA 92307

WITH COPY TO: Town of Apple Valley  
Town Clerk's Office  
14955 Dale Evans Parkway, Apple Valley, CA 92307

SENT TO HOSPITAL: Providence St. Joseph Health, St. Mary  
Alan Garrett, President & CEO  
18300 Highway 18, Apple Valley, CA 92307

WITH COPY TO: Providence St. Joseph Health, St. Mary  
Tracey Fernandez, Chief Financial Officer  
18300 Highway 18, Apple Valley, CA 92307

6. GOVERNING LAW: This MOU shall be governed and construed in accordance with the laws of the State of California (excepting any conflict of laws/provisions which would serve to defeat application of California substantive law).

IN WITNESS THEREOF, Hospital and Town of California have executed this MOU on the day and year first written above by their duly authorized representatives.

WITNESS:

Town of Apple Valley

\_\_\_\_\_ By \_\_\_\_\_

Douglas B. Robertson  
Town Manager

WITNESS:

Providence St. Joseph Health, St. Mary

\_\_\_\_\_ By \_\_\_\_\_

Alan Garrett  
President & CEO