

**RESOLUTION AUTHORIZING AND APPROVING A
COMMUNITY SERVICE SUPPORT AGREEMENT RESOLVING
VARIOUS TAX APPEALS BETWEEN PALISADES MEDICAL
CENTER AND THE TOWNSHIP OF NORTH BERGEN**

WHEREAS, the Township of North Bergen ("Township") has filed tax appeals for the years 2016 through 2020 challenging the tax exemptions of Palisades Medical Center ("Palisades") for property owned by Palisades in North Bergen (hereinafter the "Property"); and

WHEREAS, Palisades has filed counterclaims in regard to the tax appeals and claims that the Property is exempt from taxation as hospital purpose property pursuant to N.J.S.A. 54:4-3.6; and

WHEREAS, the Township and Palisades have determined that it is in their mutual best interests to enter a Community Service Support Agreement ("Agreement"), a draft copy of which is on file in the Township Administrator's Office, to amicably resolve the pending tax appeals and counterclaims, avoid the uncertainty of litigation, avoid the need for additional litigation costs, and avoid admitting any assertions made in the tax appeals or counterclaims.

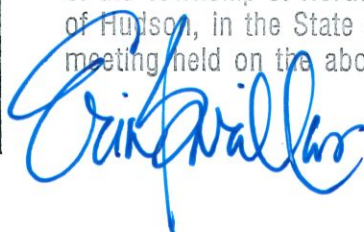
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF NORTH BERGEN that:

1. The aforesaid recitals are incorporated herein as though fully set forth at length.
2. The Agreement is hereby authorized and approved, with such changes as the Township Administrator, Township Attorney, and Special Counsel deem necessary to effectuate the resolution and disposition of the subject tax appeals.
3. The Mayor, Township Administrator, Chief Financial Officer, Township Attorney, Special Counsel, Township Clerk, Tax Collector, Tax Assessor, Township Purchasing Agent, and any other necessary official, officer or employee of the Township be and they are hereby authorized to execute any and all documents and to take any and all actions necessary to complete and realize the intent and purpose of this Resolution.

Date: September 9, 2020

	YES	NO	NOT VOTING
Cabrera	☒	☐	☐
Marengo	☒	☐	☐
Gargiulo	☒	☐	☐
Pascual	☒	☐	☐
Sacco	☒	☐	☐
(President)	☐	☐	☐

I HEREBY CERTIFY the foregoing to be a True and Correct copy of Resolution passed and adopted by the Board of Commissioners of the Township of North Bergen in the County of Hudson, in the State of New Jersey, at a meeting held on the above date.



Township Clerk

**COMMUNITY SERVICE SUPPORT AGREEMENT
BETWEEN
PALISADES MEDICAL CENTER
AND
THE TOWNSHIP OF NORTH BERGEN**

This COMMUNITY SERVICE SUPPORT AGREEMENT (this "Agreement"), dated September 9th, 2020, is by and between **PALISADES MEDICAL CENTER**, a division of HMH Hospitals Corporation, a nonprofit corporation under Title 15 of the New Jersey Statutes, having an office at 7600 River Road, North Bergen, New Jersey 07047 ("Palisades"), and **THE TOWNSHIP OF NORTH BERGEN**, a municipal corporation of the State of New Jersey, having an office at 4233 Kennedy Boulevard, North Bergen, New Jersey 07047 ("North Bergen").

RECITALS

WHEREAS, North Bergen has filed tax appeals under docket numbers 000789-2016, 000246-2017, 000872-2018, 000562-2019 and 001439-2020, challenging the tax exemptions of Palisades (the "Tax Appeals") for property owned by Palisades in North Bergen and as further described in the complaints filed in the Tax Appeals (hereinafter the "Property"); and

WHEREAS, Palisades has filed counterclaims in regard to the Tax Appeals and claims that the Property is exempt from taxation for the appeal years 2016, 2017, 2018, 2019 and 2020 and preceding years as hospital purpose property pursuant to N.J.S.A. 54:4-3.6; and

WHEREAS, North Bergen claims that the Property is taxable for the appeal years 2016, 2017, 2018, 2019 and 2020 and preceding years and not exempt as hospital purpose property pursuant to N.J.S.A. 54:4-3.6; and

WHEREAS, Palisades and North Bergen have agreed to resolve their differences and settle the Tax Appeals; and

WHEREAS, notwithstanding Palisades' claims that the Property is exempt from taxation and North Bergen's claims that the Property is taxable, in recognition of the budgetary concerns of North Bergen and the public services provided by North Bergen that benefit the Property and its occupants, and more particularly, to offset some of the costs incurred by North Bergen to provide such public services during tax years 2016 through 2026, and thereafter and further provided herein, and in part, settlement of the Tax Appeals, Palisades desires to make the following contributions to North Bergen and work collaboratively with North Bergen to improve the health of the community subject to the terms and conditions set forth under this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions, Palisades and North Bergen hereby agree as follows:

1. The recitals set forth above are made part of this Agreement.
2. It is agreed that the parties will file mutual withdrawals of the Complaints and Counterclaims filed in the Tax Appeals, pursuant to New Jersey Court Rule 8:3-9, **without prejudice**, within fourteen (14) days of execution of this Agreement. Further, North Bergen will not initiate or in any way support a challenge to the tax exempt status of the Property for tax years 2016 through and including 2026 and while this Agreement remains in effect, however, North Bergen may file tax appeals challenging the tax exemptions during those years for the sole purpose of preserving North Bergen's remedies provided herein. In the event of a breach and/or default in payment pursuant to the terms of this Agreement, then Palisades agrees this Agreement shall constitute Palisades' consent to North Bergen's application to the Tax Court to restore the Tax Appeals that were dismissed without prejudice pursuant to this paragraph.
3. In consideration for this Agreement, Palisades agrees to pay North Bergen the total sum of \$3,975,000.00 as though this Agreement was in full force and effect as of January 1, 2016 and continuing through December 31, 2026 (the "Settlement Payments"). Palisades agrees to pay the said sum pursuant to paragraph 4 of this Agreement.

4. Palisades agrees to pay the total amount of \$3,975,000 due pursuant to a payment schedule in an annual amount of \$300,000 per year for the tax years 2016, 2017, 2018, 2019, 2020, 2021, 2022 and 2023. Palisades further agrees to adjust the payment to North Bergen for the 2024, 2025, and 2026 tax years in an amount of \$550,000 for the tax year 2024, an amount of \$525,000 for the tax year 2025, and an amount of \$500,000 for the tax year 2026 in consideration of North Bergen's municipal budget. The \$300,000 for each of the tax years 2016, 2017, 2018 and 2019 will be paid with the payments due for the tax years 2020, 2021, 2022 and 2023. In other words, the payment of \$300,000 for the 2016 tax year will be paid with the \$300,000 payment for the 2020 tax year, the payment of \$300,000 for the 2017 tax year will be paid with the \$300,000 payment for the 2021 tax year, the payment of \$300,000 for the 2018 tax year will be paid with the \$300,000 payment for the 2022 tax year and the payment of \$300,000 for the 2019 tax year will be paid with the \$300,000 payment for the 2023 tax year. The payment for the 2020 tax year, which will include the payment for the 2016 tax year as stated above, will be paid within 45 days after the date the Judgments in regard to the above captioned Tax Appeals are issued by the Court but in no event later than December 1, 2020. The payments as stated above for the tax years 2021 through 2026 which will include payments for the 2017 through 2019 tax years as stated above, will be made quarterly on the dates that taxes are due to be paid in North Bergen, or within ten (10) days thereof, (February 1, May 1, August 1 and November 1 of each year), until all payments are completed in the tax year 2026. Should the amounts due North Bergen be increased in accordance with paragraph 8 below, then the remaining installments due under this paragraph will be adjusted equally to effect payment of the increased amount. No interest or penalty will be charged if such Settlement Payments are received by the dates as stated in this paragraph. The failure to make the Settlement Payments by these deadlines shall constitute a material default of this Agreement. In the event of such a default, North Bergen may restore all and/or any one or many of the above

captioned Tax Appeals and this Agreement may be deemed null and void, and the respective Tax Appeals which were herein withdrawn without prejudice, and hereinafter filed to preserve this default provisions and subsequently withdrawn without prejudice, may be reinstated. The Settlement Payments shall constitute a municipal lien on the Property and in the event of default those liens shall enforced and collected in the same manner as unpaid real estate taxes and liens collectable by tax sale and foreclosure. Statutory interest and penalties shall accrue on the Settlement Payments in the same manner as if they were unpaid property taxes.

5. If a challenge to the legal enforceability of any paragraph of this Agreement is raised by any third party, Palisades agrees to indemnify and hold harmless North Bergen, defend the terms of this Agreement, and pay any and all reasonable legal fees, costs and expenses incurred by North Bergen, provided that as a condition of Palisades's obligation to defend North Bergen and/or pay all reasonable legal fees, costs and expenses, Palisades and North Bergen shall have joint control and shall fully cooperate with each other in the defense of the matter, including but not limited to selection of legal counsel and settlement of the matter, and further provided that North Bergen shall provide Palisades with notice of any such action within at least fourteen (14) days of North Bergen's receipt of notice of any claim. Palisades and North Bergen agree to cooperate in the defense of the terms, provisions and assessments agreed to in this Agreement should any third party bring a challenge to any of the agreed upon exemptions, assessments and/or any term and/or any provision of this Agreement. Nothing contained in this Agreement shall interfere with the choice of counsel by North Bergen, except as otherwise provided for in this paragraph.

6. Nothing contained in this Agreement shall be interpreted to interfere with the Constitutional obligations of the Tax Assessor of North Bergen to assess the Property and/or other properties in North Bergen, including, but not limited to, properties owned by Palisades, and/or any entity related to Palisades in North Bergen, as taxable and/or as exempt, at the fair

assessable value of the properties consistent with assessing practices generally applicable in the taxing district as required by law, including, but not limited to, the obligation to impose added, omitted and revised assessments as required by law, as well as deny and/or grant exemptions as required by law. Neither party admits nor denies the Property's status as taxable and/or exempt and the references to same in this Agreement merely represents Palisades' and North Bergen's settlement and compromise of the Tax Appeals.

7. Palisades and North Bergen acknowledge that the failure to comply with any paragraph of this Agreement may result in this Agreement being deemed null and void, and the respective Tax Appeals being reinstated.

8. In the event that the applicable real property tax exemption provision for not for profit hospitals pursuant to N.J.S.A. 54:4-3.6 is amended and/or replaced by legislation enacted subsequent to the date of this Agreement (the "Legislation") and as a result of the Legislation the total net revenue to North Bergen resulting from said Legislation as applicable to the Property will exceed the amounts to be paid pursuant to this Agreement for the years 2016 until completion of all payments in 2026, including the payment of the municipal share of taxes (excluding school and County tax shares) on any assessments for the Property, and the payments to be made pursuant to paragraph 4, then and in that event Palisades agrees to pay to North Bergen the greater sum due to North Bergen. In the event the greater sum is the amount due to North Bergen as a result of this Agreement, North Bergen waives any right to collect any amount provided for as a result of the Legislation over and above the amounts provided for in this agreement. In other words, Palisades shall be required to pay the greater sum due to North Bergen notwithstanding any Legislation applicable to not for profit hospitals seeking real property exemptions in New Jersey.

9. The parties agree that if Palisades is required to pay back taxes or other moneys that exceed the amounts already paid pursuant to this Agreement for the properties covered by

this Agreement, then Palisades will be entitled to receive a credit for those payments already made pursuant to paragraphs 4. By way of example, if in 2021 a Court orders Palisades to pay North Bergen the taxes due on the Property that was exempt for the previous years 2016 through 2020, then Palisades would be allowed to have a credit for the payments actually made pursuant to paragraph 4 against the Court ordered tax payments for those past years obligations pursuant to that 2021 order. The provisions of this paragraph shall be effective notwithstanding the fact that Palisades shall be required to pay the greater sum due to North Bergen by this Agreement or Legislation, as provided in paragraph 8 above.

10. If judgments are not entered by the Tax Court **without prejudice** pursuant to this Agreement, the parties have the option to either (a) void this Agreement in its entirety and vacate any judgments that may be entered and proceed with the Tax Appeals' litigation; or (b) choose to proceed with the settlement for any of the tax years not effected pursuant to this Agreement, and litigate any other tax year(s) Tax Appeal(s).

11. During the first quarter of the 2026 tax year, the parties agree to meet to discuss the terms of future tax payments, municipal service fees, and/or if permitted by law, payments in lieu of taxation, by Palisades to North Bergen for the extraordinary municipal services provided by and expenses incurred by North Bergen as a result of Palisades and any successor medical center, or any Palisades related entity, being located in North Bergen. The parties agree that payments to be made by Palisades to North Bergen starting in 2027 shall be no less than \$400,000 per annum.

12. Except as otherwise provided in this Agreement, this Agreement constitutes the entire agreement of Palisades and North Bergen with respect to the subject matter hereof and supersedes any and all prior written or oral understandings, negotiations and agreements.

13. This Agreement was jointly drafted by Palisades and North Bergen and the language of this Agreement shall in all cases be construed as a whole according to its meaning

and not strictly for or against any of the parties.

14. Palisades and North Bergen agree that in the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unconstitutional or unenforceable in any respect, such invalidity, illegality, unconstitutionality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, unconstitutional or unenforceable provision had never been contained herein or therein. If any provision of this Agreement is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court shall declare such provision of this Agreement to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of both parties that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void or unenforceable provision was not contained herein, and the rights, obligations and interests of the parties under the remainder of this Agreement shall continue in full force and effect. If as a result of an action contemplated by this paragraph of the Agreement, North Bergen is deemed to receive less than the sums contemplated by this Agreement, then and in that event, North Bergen may reinstate the above captioned Tax Appeals, and/or any one or many of these Tax Appeals, including subsequently filed tax appeals as provided herein, and proceed with those Tax Appeals.

15. In the event this Agreement is deemed null and void for any reason, North Bergen will refund any and all Settlement Payments paid by Palisades pursuant to this Agreement to Palisades within ninety (90) days of such determination, without interest. In the event that any of the Tax Appeals are reinstated, any amounts paid to North Bergen in a year that a tax appeal was filed shall be applied as a credit against any taxes that may become due and owing for the respective tax year(s). If the Tax Court determines that no taxes are due and owing for a particular tax year or the amount owed is less than the amount paid to North Bergen

for that particular year, or if the tax appeal is ultimately withdrawn, then the Settlement Payments paid for that tax year shall be refunded, without interest, or the refund reduced accordingly. Palisades may, at its own election, apply the refund amounts due pursuant to this paragraph to its next quarterly tax bill due on any Settlement Payments. To the extent Palisades elects to apply any refund amount due pursuant to this paragraph as a credit, any remaining amounts not applied as a credit will be refunded to Palisades within the ninety (90) day period.

16. The parties acknowledge that a portion of the Property exempted under this Agreement includes a long term care facility called The Harborage. Palisades and North Bergen agree that during the term of this Agreement in the event of a sale, lease, and/or transfer of The Harborage to a for profit entity whether affiliated or non-affiliated with Hackensack Meridian Health, Inc. the tax exemption for that portion of the Property shall terminate and the tax assessor shall assess that portion of the Property at the assessable value of the Property occupied by The Harborage consistent with assessing practices generally applicable in the taxing district. Any sale, lease, and/or transfer of The Harborage shall have no effect on the Settlement Payments due pursuant to this Agreement.

17. Palisades and North Bergen agree to execute or cause its counsel to execute any additional documents and take any further action, which may reasonably be required to consummate this Agreement.

18. The parties and/or either one of the parties, may, **only in the event of default of this Agreement**, file this Agreement with the Tax Court and/or any other Court with competent jurisdiction, in all and/or any one of the above captioned Tax Appeals, in order to enforce the terms of, and or vacate the without prejudice dismissals of the Tax Appeals.

19. This Agreement shall be interpreted pursuant to the laws of the State of New Jersey and the Tax Court shall continue to have jurisdiction of the Tax Appeals until the terms, conditions and payments hereunder are completed.

20. Any notices, statements, demands, consents, approvals or other communications required or permitted to be given or to be served upon either party hereto in connection with this Agreement, must be in writing and must be delivered personally, sent by a nationally recognized overnight delivery service or sent by United States certified or registered mail, return receipt requested, and will be deemed to have been given and received on the day delivered personally, or on the first business day after the day it is dispatched to a nationally recognized overnight delivery service, or on third business day after so mailed. Such notice must be given to the parties at their following respective addresses or at such other address as either party may hereafter designate to the other party in writing in the manner herein above provided:

If to Palisades:

Palisades Medical Center
A Division of HMM Hospitals Corporation
7600 River Road
North Bergen, NJ 07047
Attention: Hospital President

And

Hackensack Meridian Health
343 Thornall Street
Edison, NJ 08837
Attention: Legal Department

And

Susan A. Feeney, Esq.
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

If to North Bergen:

The Township of North Bergen
4233 Kennedy Boulevard
North Bergen, NJ 07047
Attention: Township Administrator

And

Martin Allen, Esq.
DiFrancesco, Bateman, Kunzman, Davis, Lehrer,
Flaum, PC
15 Mountain Boulevard
Warren, NJ 07059

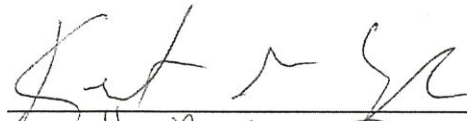
21. This Agreement is binding upon the successors and assigns of any and all of the parties hereto except as indicated in Paragraph 20 above.

22. The parties acknowledge and agree that the terms of this Agreement are unique to the parties. Palisades acknowledges that North Bergen is a municipal corporation subject to the New Jersey and United States Constitution and this Agreement shall be subject to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. and the Common Law Right of Access. Notwithstanding these obligations neither party will issue a press release or any public statement about the Tax Appeals or this Agreement absent such other party's written consent.

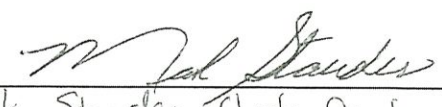
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

ATTEST:

PALISADES MEDICAL CENTER,
A DIVISION OF HMH HOSPITALS
CORPORATION.



Kenneth M. Erceg Jr.
SVP, Chief of Staff
DATE: 9/9/2020

BY: 

Mark Stauder, Chief Operating Officer
DATE: 9-9-2020

ATTEST:



Erin Barillas, Township Clerk
DATE: 9/9/2020

TOWNSHIP OF NORTH BERGEN

BY: 

Christopher Pianese, Twp. Admin.
DATE: 9/9/20