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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,[1] Debtors and Debtors In Possession.	District Court Case No. 2:19-cv-10352-DSF Hon. Dale S. Fischer On Appeal from the United States Bankruptcy Court for the Central District of California Bankruptcy Court Lead Case No. 2:18-bk-20151-ER Chapter 11 Cases
STRATEGIC GLOBAL MANAGEMENT, INC., Appellant, v. STATE OF CALIFORNIA; VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*, Appellees.	**NOTICE OF RELATED CASES**

[1] The other Debtors in the chapter 11 cases, being jointly administered under Lead Case No. 2:18-bk-20151-ER, are O'Connor Hospital 2:18-bk-20168-ER, Saint Louise Regional Hospital 2:18-bk-20162-ER, St. Francis Medical Center 2:18-cv-20165-ER, St. Vincent Medical Center 2:18-bk-20164-ER, Seton Medical Center 2:18-cv-20167-ER, O'Connor Hospital Foundation 2:18-bk-20179-ER, Saint Louise Regional Hospital Foundation 2:18-cv-20172-ER, St. Francis Medical Center of Lynwood Foundation 2:18-cv-20178-ER, St. Vincent Foundation 2:18-cv-20180-ER, St. Vincent Dialysis Center, Inc. 2:18-cv-20171- ER Seton Medical Center Foundation 12:8-cv-20175-ER, Verity Business Services 2:18-cv-20173-ER, Verity Medical Foundation 2:18-cv-20169-ER, Verity Holdings, LLC 2:18-cv-20163-ER, DePaul Ventures, LLC 2:18-cv-20176-ER, and DePaul Ventures - San Jose Dialysis, LLC 2:18-cv-20181-ER.

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PLEASE TAKE NOTICE that Verity Health System of California, Inc. ("VHS"), and the above-referenced affiliated debtors and debtors-in-possession (the "Debtors") in the above-captioned chapter 11 cases (the "Bankruptcy Cases") pending in the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court") and the appellees herein, hereby submit this notice (the "Notice") of related appeals in accordance with Rule 83-1.3 Chapter I of the Local Rules of the United States District Court for the Central District of California (the "Local Rules") and *In re Assignment Of Cases and Duties to District Judges*, General Order No. 19-03, § II.I.1. at 20 (C.D. Cal. Feb. 28, 2019) ("General Order No. 19-03").

PLEASE TAKE FURTHER NOTICE that the above-captioned appeal assigned to the Honorable Dale S. Fischer stems from the Debtors' jointly administered Bankruptcy Cases filed on August 31, 2019 (the "Petition Date"), which are currently pending in the Bankruptcy Court.[1] The Bankruptcy Cases are the second largest hospital bankruptcy cases in United States' history and are complex chapter 11 healthcare cases that involve operating acute care general hospitals that are safety net hospitals in underserved communities. The Honorable R. Gary Klausner presided over the following two appeals from orders entered in the Bankruptcy Cases:

1. *Official Committee of Unsecured Creditors of Verity Health System of California, Inc. v. Verity Health System of California, Inc., et al. (In re Verity Health System of California, Inc.)*, Case No. 2:18-cv-10675-RGK (the "DIP Financing Appeal"). True and correct copies of the *Notice of Appeal and Statement of Election* and the *Notice of Transfer of Appeal to District Court* filed in the DIP Financing Appeal are attached hereto as Exhibit "A" and Exhibit "B," respectively, and incorporated herein by this reference. The DIP Financing Appeal concerned the Bankruptcy Court's order authorizing the Debtors' to obtain debtor-in-possession financing. On August 2, 2019, the Honorable R. Gary Klausner entered an order dismissing the DIP Financing

[1] On the Petition Date, Debtor VHS, a California nonprofit public benefit corporation, was the sole corporate member of five Debtor California nonprofit public benefit corporations that operated O'Connor Hospital ("OCH") and Saint Louise Regional Hospital ("SLRH"), and currently operates St. Francis Medical Center ("SFMC"), St. Vincent Medical Center ("SVMC"), and Seton Medical Center, including Seton Medical Center Coastside Campus (collectively, "Seton" and, together with OCH, SLRH, SFMC, and SVMC, the "Hospitals").

Appeal as moot. A true and correct copy of the Court's August 2, 2019 order is attached hereto as Exhibit "C" and incorporated herein by this reference.

2. *Xavier Becerra v. County of Santa Clara, et al. (In re Verity Health System of California)*, Case No. 2:19-cv-00133-RGK (the "Santa Clara Sale Appeal"). A true and correct copy of the *Notice of Appeal and Statement of Election* filed in the Santa Clara Sale Appeal is attached hereto as Exhibit "D" and incorporated herein by this reference. The Santa Clara Sale Appeal concerned the Bankruptcy Court's order authorizing the sale of two of the Debtors' Hospitals—OCH and SLRH. The Santa Clara Sale was transferred to the Honorable R. Gary Klausner pursuant to Local Rule 83-1.3 and General Order 19-03. On April 3, 2019, the Court entered a stipulated order dismissing the appeal. A true and correct copy of the Court's April 3, 2019 stipulated order is attached hereto as Exhibit "E" and incorporated herein by this reference.

PLEASE TAKE FURTHER NOTICE that, pursuant to Section II.I.1.b. of General Order 19-03 and as set forth below, the following appeals (collectively, the "SGM Sale Appeals") stem from the Bankruptcy Cases and are related to each other because the SGM Sale Appeals: (i) arise from the same or closely related transactions, happenings, or events; (ii) call for a determination of the same or substantially related or similar questions of law and fact; and (iii) for other reasons, as set forth herein, would entail substantial duplication of labor if heard by different Judges.

1. *Strategic Global Management, Inc. v. State of California, et al. (In re Verity Health System of California, Inc.)*, Case No. 2:19-cv-10352-DSF (the "Enforcement Order Appeal"). True and correct copies of the *Notice of Appeal and Statement of Election* and the *Notice of Transfer of Appeal to District Court* filed in the Enforcement Order Appeal are attached hereto as Exhibit "F" and Exhibit "G," respectively, and incorporated herein by this reference.

2. *Strategic Global Management, Inc. v. State of California, et al. (In re Verity Health System of California, Inc.)*, Case No. 2:19-cv-10354-CAS (the "Section 8.6 Order Appeal"). True and correct copies of the *Notice of Appeal and Statement of Election* and the *Notice of Transfer of Appeal to District Court* filed in the Enforcement Order Appeal are attached hereto as Exhibit "H" and Exhibit "I," respectively, and incorporated herein by this reference.

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3. *Strategic Global Management, Inc. v. Verity Health System of California, Inc., et al. (In re Verity Health System of California, Inc.)*, Case No. 2:19-cv-10356-ODW (the "Closing Order Appeal" and, together with the Enforcement Order Appeal and the Section 8.6 Order Appeal, the "SGM Sale Appeals"). True and correct copies of the *Notice of Appeal and Statement of Election* and the *Notice of Transfer of Appeal to District Court* filed in the Enforcement Order Appeal are attached hereto as Exhibit "J" and Exhibit "K," respectively, and incorporated herein by this reference.

PLEASE TAKE FURTHER NOTICE that the SGM Sale Appeals arise from the currently-pending sale (the "SGM Sale") of the Debtors' remaining four Hospitals—SFMC, SVMC, and Seton—to Strategic Global Management, Inc. ("SGM") pursuant to that certain asset purchase agreement dated January 8, 2019 between the Debtors and SGM (the "APA"). SGM is the appellant in the three SGM Sale Appeals, which each relate to orders entered by the Bankruptcy Court in furtherance of closing SGM Sale. ***First***, the Enforcement Order Appeal concerns language of a stipulated order (the "Enforcement Order") entered into between the Debtors and the California Attorney General as required pursuant to Section 8.6 of the APA. *See* Ex. F. ***Second***, the Section 8.6 Order Appeal concerns the Bankruptcy Court's order finding that the Enforcement Order satisfies the Debtors' obligations under Section 8.6. of the APA. *See* Ex. H. ***Third***, the Closing Order Appeal concerns the Bankruptcy Court's order finding that the Debtors satisfied each of their conditions to close the SGM Sale pursuant to the APA. *See* Ex. J.

PLEASE TAKE FURTHER NOTICE that the Debtors submit that (i) the SGM Sale Appeals arise from the same transaction concerning the Bankruptcy Court's interpretation of the APA and related factual considerations concerning the SGM Sale; (ii) the SGM Sale Appeals, taken together, call for determinations of the same or substantially related or similar questions of law and fact related to the APA and the SGM Sale; and (iii) litigating the SGM Sale Appeals separately would entail substantial duplication of labor by the parties and the Court. Further, in light of the Court's familiarity with the Debtors' Bankruptcy Cases in the DIP Financing Appeal and the Santa Clara Sale Appeal, the Debtors submit that the interests of judicial economy are best served by reassignment of the SGM Sale Appeals to the Honorable R. Gary Klausner.

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Accordingly, the Debtors submit that the DIP Financing Appeal, the Santa Clara Sale Appeal, and the SGM Sale Appeals are related cases for the purposes of Local Rule 83-1.3 and General Order 19-03.

Respectfully submitted,

Dated: December 12, 2019

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By: */s/ Tania M. Moyron*
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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system.

I further certify that parties of record to this appeal who either are registered CM/ECF users, or who have registered for electronic notice, or who have consented in writing to electronic service, will be served through the CM/ECF system.

I further certify that some of the parties of record to this appeal have not consented to electronic service. I have served the foregoing document by the means set forth below:

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/s/ Tania M. Moyron
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Exhibit A
DIP Financing Appeal
Notice of Appeal and Statement of Election

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☐ *Individual appearing without attorney Proposed*
■ *Counsel for: Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.*

FOR COURT USE ONLY

FILED
CLERK, U.S. DISTRICT COURT
12/27/18
CENTRAL DISTRICT OF CALIFORNIA
BY: CS DEPUTY

CV18-10675-RGK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

In re:

VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,

Debtor(s).

CASE NO.: 2:18-bk-20151-ER

ADVERSARY NO.: (*if applicable*)

CHAPTER: 11

Plaintiff(s) (*if applicable*).

vs.

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Official Committee of Unsecured Creditors of Verity Health System of California, Inc., *et al.*

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff
☐ Defendant
☐ Other (*describe*):

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor
☐ Creditor
☐ Trustee
■ Other (*describe*): Official Committee of Unsecured Creditors

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:

   Paragraphs 2(d), 2(h), 5(d), 5(f), 19, and 28(e) of the *Final Order (I) Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying Automatic Stay, and (VI) Granting Related Relief* (the "Final DIP Order") [Docket No. 409] solely with respect to the Prepetition Secured Creditors (as defined in the Final DIP Order).

2. The date the judgment, order, or decree was entered: 10/4/2018

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: Debtors Verity Health System of California, Inc., et al.

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2. Party:

   Attorney:

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

James C. Behrens

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Date: 11/29/2018

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

2029 Century Park E, 33rd Floor, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled (*specify*): ***NOTICE OF APPEAL AND STATEMENT OF ELECTION*** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 29, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:
On (*date*) November 29, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) November 29, 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 29, 2018	Ricky Windom	/s/ Ricky Windom
Date	*Printed Name*	*Signature*

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FILED & ENTERED

OCT 04 2018

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

CHANGES MADE BY COURT

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re

VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,

Debtors and Debtors In Possession.

☒ Affects All Debtors

☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☐ Affects St. Francis Medical Center
☐ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 18-20151
Jointly Administered With:
CASE NO.: 2:18-bk-20162-ER
CASE NO.: 2:18-bk-20163-ER
CASE NO.: 2:18-bk-20164-ER
CASE NO.: 2:18-bk-20165-ER
CASE NO.: 2:18-bk-20167-ER
CASE NO.: 2:18-bk-20168-ER
CASE NO.: 2:18-bk-20169-ER
CASE NO.: 2:18-bk-20171-ER
CASE NO.: 2:18-bk-20172-ER
CASE NO.: 2:18-bk-20173-ER
CASE NO.: 2:18-bk-20175-ER
CASE NO.: 2:18-bk-20176-ER
CASE NO.: 2:18-bk-20178-ER
CASE NO.: 2:18-bk-20179-ER
CASE NO.: 2:18-bk-20180-ER
CASE NO.: 2:18-bk-20171-ER

Chapter 11 Cases

Hon. Ernest M. Robles

FINAL ORDER (I) AUTHORIZING POSTPETITION FINANCING, (II) AUTHORIZING USE OF CASH COLLATERAL, (III) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

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Upon the emergency motion (the "***DIP Motion***")[1], dated August 31, 2018, filed by Verity Health System of California, Inc., O'Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center, Seton Medical Center, Verity Holdings, LLC, Verity Medical Foundation, O'Connor Hospital Foundation, Saint Louise Regional Hospital Foundation, St. Francis Medical Center of Lynwood Medical Foundation, St. Vincent Foundation, St. Vincent Dialysis Center, Inc., Seton Medical Center Foundation, Verity Business Services, DePaul Ventures, LLC, and DePaul Ventures - San Jose Dialysis, LLC (collectively, the "***Debtors***"), as debtors and debtors in possession in the above captioned chapter 11 cases (collectively, the "***Chapter 11 Cases***"), pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507 of title 11 of the United States Code (the "***Bankruptcy Code***"), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Rule 4001-2 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Central District of California (the "***Local Rules***" or "***LBR***"), for entry of an emergency order (the "***Interim Order***") following conclusion of the interim hearing (the "Interim Hearing") authorizing the Debtors, on an interim basis, and following the conclusion of a final hearing (the "***Final Hearing***") on the DIP Motion, for entry of a final order (the "***Final Order***") authorizing the Debtors, on a final basis to, among other things: ~~*inter alia:*~~

(i) Obtain senior secured post-petition financing (the "***DIP Financing***" or "***DIP Facility***") pursuant to the terms and conditions of the DIP Financing Agreements (as defined below), the Interim Order, and this Final Order, pursuant to sections 364(c)(1), 364(d), and 364(e) of the Bankruptcy Code and Rule 4001(c) of the Bankruptcy Rules;

(ii) Enter into a Debtor-in-Possession Credit Agreement (the "***DIP Credit Agreement***"), substantially in the form attached as Exhibit 2 to the Supplemental Chou Declaration ("**Supp. Chou Decl.**") [Docket 309-2], and other related financing documents (together with the DIP Credit Agreement and DIP Security Agreement, the "***DIP Financing Agreements***"), by and among each

[1] Capitalized terms used herein and not otherwise defined shall have the meaning ascribed in the DIP Motion.

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of the Debtors and Ally Bank ("***Ally***"), in its capacity as agent ("***DIP Agent***") and in its capacity as lender ("***DIP Lender***,") under the DIP Credit Agreement;

(iii) Borrow, on an interim basis, pursuant to the DIP Financing Agreements, postpetition financing of up to $30,000,000 on a revolving basis (the "***Interim DIP Loan***") and seek other financial accommodations from the DIP Agent and DIP Lender pursuant to the DIP Credit Agreement, the other DIP Financing Agreements and the Interim Order;

(iv) Borrow, on a final basis, pursuant to the DIP Financing Agreements, post-petition financing of up to an additional $155,000,000, for a total of up to $185,000,000, on a revolving basis, which includes the Interim DIP Loan (the "***Final DIP Loan***," and together with the Interim DIP Loan, the "***DIP Loan***") and seek other financial accommodations from the DIP Agent and DIP Lender pursuant to the DIP Credit Agreement, the other DIP Financing Agreements, and this Final Order;

(v) Execute and deliver the DIP Credit Agreement and the other DIP Financing Agreements;

(vi) Grant the DIP Agent and DIP Lender allowed super-priority administrative expense claims, pursuant to section 364(c)(1) of the Bankruptcy Code, in each of the Chapter 11 Cases and any Successor Cases (as defined below) for the DIP Financing and all obligations of the Debtors owing under the DIP Financing Agreements (collectively, and including all "***Obligations***" of the Debtors as defined and described in the DIP Credit Agreement, the "***DIP Obligations***") subject only to the Carve Out (defined below) as set forth below;

(vii) Grant the DIP Agent and DIP Lender automatically perfected first priority senior security interests in and liens on all of the DIP Collateral (as defined below) pursuant to section 364(d)(1) of the Bankruptcy Code, which liens shall not be subordinate to any other liens, charges, security interests or surcharges under section 506(c) or any other section of the Bankruptcy Code, with the exception of the Carve Out (defined below) as set forth below;

(viii) Obtain authorization to use the proceeds of the DIP Financing in all cases in accordance with the 13 week budget, as updated from time to time attached as Exhibit 1, Supp.

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Chou Decl. (the "***DIP Budget***") and as otherwise provided in the DIP Financing Agreements, the Interim Order and this Final Order;

(ix) Provide adequate protection to certain of the Prepetition Secured Creditors (defined herein) and McKesson (defined herein) pursuant to the terms of this Final Order for any diminution in value of their respective interests in the Prepetition Collateral or VMF Collateral (each as defined herein) resulting from the DIP Liens (as defined herein) on the Prepetition Collateral or VMF Collateral, subordination to the Carve Out (as defined herein), or Debtors' use, sale, or lease of Prepetition Collateral or VMF Collateral, including cash collateral within the meaning of 11 U.S.C. §363(a) (such cash collateral that is Prepetition Collateral or VMF Collateral hereafter defined as "***Cash Collateral***");

(x) Grant authorization based upon the consent of the Prepetition Secured Creditors and McKesson to use of Cash Collateral in accordance with the DIP Budget upon the terms and conditions set forth herein;

(xi) Vacate and modify the automatic stay imposed by section 362 of the Bankruptcy Code solely to the extent necessary to implement and effectuate the terms of the DIP Financing Agreements, the Interim Order, and this Final Order;

(xii) Following the conclusion of a final hearing (the "***Final Hearing***") to consider entry of an order (the "***Final Order***") granting all other relief requested in the DIP Motion on an interim and final basis; and

(xiii) Waive any applicable stay as provided in the Bankruptcy Rules (expressly including Rule 6004) and provide for immediate effectiveness of this Final Order.

The Court, having considered the DIP Motion, the Declarations of Anita M. Chou, Chief Financial Officer filed in support of the DIP Motion and Rich Adcock, Chief Executive Office filed in support of the First Day Motions each as Officers of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings, the DIP Motion, the DIP Financing Documents, and the Supplemental Declaration of Anita Chou in Support of Debtors' Reply in Support of the DIP Motion, and the exhibits attached thereto, and the evidence submitted or adduced and the arguments of counsel made at the Interim Hearing and the *Final Hearing*; and due and proper notice of the

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DIP Motion, the Interim Hearing, entry of the Interim Order, and Final Hearing having been provided in accordance with Bankruptcy Rules 2002, 4001(b) and (d), and 9014 and LBR 4001-2 and no other or further notice being required under the circumstances; and the Interim Hearing and Final Hearing having been held and concluded; and it appearing that approval of the final relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtors and is otherwise fair and reasonable and in the best interests of the Debtors, their estates and their creditors, and is essential for the preservation of the value of the Debtors' assets; and the Court having considered the *Objection to Debtor's Proposed Form of Order on Motion of Debtors for Final Order (A) Authorizing the Debtors to Obtain Post Petition Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and 1108* [Doc. No. 398] filed by UMB Bank, N.A. ("UMB Bank"), the *Response of U.S. Bank National Association, as Series 2017 Note Trustee, to Objection to Debtors' Proposed Form of Order on Motion of Debtors for Final Order (A) Authorizing the Debtors to Obtain Post Petition Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and 1108* [Doc. No. 401] (the "UMB Objection"), and the *Response of Verity MOB Financing LLC and Verity MOB Financing II LLC With Respect to Objection to Debtors' Proposed Form of Order on Motion of Debtors for Final Order (A) Authorizing the Debtors to Obtain Post Petition Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and 1108* [Doc. No. 402]; and the Court having overruled the UMB Objection to entry of this Final Order[2]; and any other objections ~~all objections, if any,~~ to the entry of this Final Order having been withdrawn, resolved or overruled by the Court; and for the

[2] At the Final Hearing, the Debtors read into the record proposed language intended to resolve the objections asserted by UMB Bank. UMB Bank's counsel stated that the proposed language was acceptable. After the Debtors lodged a proposed form of order incorporating the language that the Debtors had read into the record, UMB filed the UMB Objection. The Court finds that by assenting to the proposed language on the record at the Final Hearing, UMB Bank has waived its ability to object to the form of this Final Order.

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reasons set forth in the Court's tentative ruling [Doc. No. 392], incorporated herein by reference; and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM AND FINAL HEARINGS, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[3]

A. **Petition Date**. On August 31, 2018 (the "***Petition Date***"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Central District of California (the "***Court***"). The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. **Jurisdiction and Venue**. This Court has jurisdiction over the Cases, the DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334(b), and over the persons and property affected hereby. Consideration of the DIP Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue for these Chapter 11 Cases and proceedings on the DIP Motion is proper before this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Committee Formation.** The Office of the United States Trustee (the "***U.S. Trustee***") provided notice of the appointment of an official committee of unsecured creditors in these Cases pursuant to section 1102 of the Bankruptcy Code, the members of which are identified by the Office of the United States Trustee in that Notice of Appointment and Appointment of Committee of Creditors Holding Unsecured Claims dated September 17, 2018 [Docket No 197] (the "***Committee***").

D. **Notice**. The Court entered the Interim Order on September 6, 2018 [Docket 86]. Notice of entry of the Interim Order and Notice of the Final Hearing on the DIP Motion [Docket

[3] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

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201] has been provided by the Debtors to: (i) the Office of the United States Trustee for the Central District of California (the "***U.S. Trustee***"); (ii) the United States Securities and Exchange Commission; (iii) the Office of the United States Attorney for the Central District of California; (iv) the Internal Revenue Service; (v) the Debtors' fifty (50) largest unsecured creditors on a consolidated basis; (vi) counsel to each of the Prepetition Secured Creditors (as defined below); (vii) counsel to the DIP Agent and the DIP Lender; (viii) the Office of the Attorney General for the State of California, Charities Division; (ix) proposed counsel to the Committee; and (x) all other parties known to assert a lien on any of the Debtors' assets. Under the circumstances, such notice of the Final Hearing and the DIP Motion constitute due, sufficient and appropriate notice and complies with sections 102(1) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b), and the Local Rules, and no other or further notice is required under the circumstances.

E. **Findings Regarding Corporate Authority**. As set forth in the resolutions accompanying the Petitions and the Adcock Declaration, each Debtor has all requisite corporate power and authority to execute and deliver the DIP Financing Agreements to which it is a party, to grant the DIP Liens (as defined herein) and to perform its obligations thereunder.

F. **Intercreditor Agreement**. Pursuant to section 510(a) of the Bankruptcy Code, the Second Amended and Restated Intercreditor Agreement dated December 1, 2017 (the "***Intercreditor Agreement***") and any other applicable intercreditor or subordination provisions contained in any of the Prepetition Secured Documents (i) shall remain in full force and effect, with respect to prepetition and post-petition assets of the Debtors as provided thereunder, (ii) shall continue to govern the relative priorities, rights and remedies of the Prepetition Secured Creditors (including the relative priorities, rights and remedies of such parties with respect to the Prepetition Replacement Liens and Adequate Protection Superpriority Claims granted, or amounts payable, by the Debtors under the Interim Order, this Final Order or otherwise and the modification of the automatic stay), and (iii) shall not be deemed to be amended, altered or modified by the terms of this Final Order or the DIP Financing Agreements, unless expressly set forth herein.

G. **Prepetition Secured Credit Facilities**. As of the Petition Date, the Debtors were indebted and liable to the Prepetition Secured Creditors as follows:

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(i) UMB Bank, N.A., ("***UMB Bank***") as successor Master Trustee (in such capacity, the "***Master Trustee***") under the Master Trust of Trust dated as of December 1, 2001, as amended and supplemented (the "***Master Indenture***") with respect to the MTI Obligations (defined below) securing the repayment by the Obligated Group (defined below) of its loan obligations with respect to (1) the California Statewide Communities Development Authority Revenue Bonds (Daughters of Charity Health System) Series 2005 A, G and H (the "***2005 Bonds***"), (2) the California Public Finance Authority Revenue Notes (Verity Health System) Series 2015 A, B, C and D (the "***2015 Working Capital Notes***"), and (3) the California Public Finance Authority Revenue Notes (Verity Health System) Series 2017 A and B (the "***2017 Working Capital Notes***" and, collectively with the 2015 Working Capital Notes, the "***Working Capital Notes***"). The joint and several obligations issued under the Master Indenture by Verity Health System of California, Inc., O'Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center and Seton Medical Center (collectively, the "***Obligated Group***") in respect of the 2005 Bonds and the Working Capital Notes are collectively referred to as the "***MTI Obligations***". Wells Fargo Bank National Association ("***Wells Fargo***") serves as bond indenture trustee under the bond indentures relating to the 2005 Bonds. U.S. Bank National Association ("***U.S. Bank***") serves as the note indenture trustee and as the collateral agent under each of the note indentures relating to the 2015 Working Capital Notes and the 2017 Working Capital Notes, respectively. The MTI Obligations are secured by, inter alia, security interests granted to the Master Trustee in the prepetition accounts of, and mortgages on the principal real estate assets of, the members of the Obligated Group.

In addition to the security provided to the Master Trustee to secure the MTI Obligations, U.S. Bank, as Note Trustee for the 2015 Working Capital Notes and the 2017 Working Capital Notes is secured by prepetition first priority liens upon and security interests in the Obligated Group's accounts and deeds of trust on the principal real estate assets of Saint Louise Regional Hospital and St. Francis Medical Center (collectively, the "***Priority Collateral***"). U.S. Bank as Notes Trustee for the 2017 Working Capital Notes has also been granted a deed of trust,

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dated as of December 1, 2017, by Verity Holdings in certain real property located in San Mateo California (the "***Moss Deed of Trust***") to further secure the 2017 Working Capital Notes.

(ii) Verity MOB Financing, LLC and Verity MOB Financing II, LLC (together, the "***MOB Lenders***") hold security interests in Verity Holdings' accounts, including rents arising from the prepetition MOB Financing, and mortgages on medical office buildings owned by Verity Holdings (the "***MOB Financing***").

The Master Trustee, Wells Fargo as bond indenture trustee for the 2005 Notes, U.S. Bank as Note Trustee for the Working Capital Notes, and the MOB Lenders are collectively hereafter referred to as the "***Prepetition Secured Creditors***;" the MTI Obligations, the Obligated Group's loan obligations with respect to the Working Capital Notes and the MOB Financing are hereinafter referred to as the "***Prepetition Secured Obligations***;" the prepetition interests (including the liens and security interests) of each Prepetition Secured Creditor in the property and assets of the Debtors are hereinafter referred to as the "***Prepetition Liens***;" and the documents, writings and agreements evidencing the Prepetition Secured Obligations are hereinafter referred to as the "***Prepetition Secured Documents***".

H. **Prepetition Secured Trade Vendor Arrangement**. Prior to the Petition Date, Debtor Verity Medical Foundation ("***VMF***") entered into agreements for the sole source purchasing of certain critical chemotherapy and other pharmaceutical products and medical-surgical products with McKesson Corporation and certain affiliates ("***McKesson***"), and on or about March 27, 2018 granted to McKesson a prepetition perfected security interest ("***VMF Liens***") in VMF tangible and intangible personal property, including accounts (the "***VMF Collateral***"), but such perfected security interest excluded VMF cash (to the extent such cash does not represent proceeds of the VMF Collateral), personal property requiring possession for perfection and real property interests. As of the Petition Date, McKesson was owed approximately $3,055,000.00 (the "***McKesson Prepetition Debt***"). Postpetition, and subject to McKesson's internal credit review and approval process, McKesson has agreed to resume providing certain secured trade credit to VMF and the physician practices ordering through VMF for the purchase of pharmaceutical and medical-surgical

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products on 30 days from invoice payment terms (the "***McKesson Post-Petition Trade Credit***"). The McKesson Post-Petition Trade Credit will continue to be secured by the VMF Liens.

I. **Prepetition Collateral**. In order to secure the Prepetition Secured Obligations and the Prepetition Secured Trade Vendor Arrangement (as described in paragraph H above), the Debtors, excluding the Philanthropic Foundations, granted the Prepetition Liens and the VMF Liens to the Prepetition Secured Creditors and McKesson, respectively as provided and described in the Prepetition Secured Documents and the documents pertaining to the VMF Collateral. The assets subject to the Prepetition Liens (the "***Prepetition Collateral***") and the VMF Collateral constitute substantially all of the assets of the Debtors, excluding cash and assets of the Philanthropic Foundations.

J. **Prepetition Agreements to Pay Special Assessments.** Seton Medical Center, a Debtor, ("***SMC***") and California Statewide Communities Development Authority ("***CSCDA***") entered into an (i) Agreement to Pay Assessment and Finance Improvements dated May 11, 2017 under the CSCDA CaliforniaFirst Program ("***Clean Fund Agreement to Pay Assessment***"), and (ii) Agreement to Pay Assessment and Finance Improvements dated May 18, 2017 under the CSCDA CaliforniaFirst Program ("***Petros Agreement to Pay Assessment***", collectively, with Clean Fund Agreement to Pay Assessment, the "***Assessment Agreements*** "), each for the limited purpose of providing financing for certain renewable energy, energy efficiency, water efficiency and seismic improvements permanently affixed to real property owned by SMC located in Daly City, California under the CSCDA CaliforniaFirst Program in the aggregate amount of $40,000,000. As of the Petition Date, after payment of tax exempt bond issuance fees for the Clean Fund Bonds and the NR2 Petros Bonds (each as defined in the DIP Motion) and retention of capitalized interest reserves approximately $34,379,450 is being held for authorized improvements (the "***Program Funds***") by Wilmington Trust N.A. ("***WTNA***") as indenture trustee, pursuant to, *inter alia*, the terms of two Indentures between CSCDA and WTNA dated as of May 11, 2017 and May 18, 2017 and the Assessment Agreements. Notwithstanding SMC's status as a tax exempt California not for profit corporation, SMC agreed and consented to the CSCDA special tax assessments imposed pursuant to and under the Assessment Agreements (the "***CSCDA Special Assessments***"). The Debtors

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acknowledge that the CSCDA Special Assessments have the same lien priority and methods of collection as general municipal taxes on real property. Notices of Assessment and Payment of the Special Assessments were recorded in the official records of the County of San Mateo against the real property owned by SMC and consented to by the Prepetition Secured Creditors. The Debtors acknowledge that the Program Funds and other proceeds of the issuance of the Clean Fund Bonds or NR2 Petros Bond which are being held by WTNA are not property of the Debtors' estates, and are not subject to the Prepetition Liens, the DIP Liens, or the Prepetition Replacement Liens.

K. **Findings Regarding the Postpetition Financing**.

(i) **Consensual Priming of the Prepetition Liens**. The priming of the Prepetition Liens of the Prepetition Secured Creditors on the Prepetition Collateral, and the VMF Liens on the VMF Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the DIP Financing Agreements, as authorized by the Interim Order and this Final Order, and as further described below, is consented to by the Prepetition Secured Creditors and McKesson, and will enable the Debtors to continue borrowing under the DIP Facility and to continue operating their businesses for the benefit of their estates and creditors. The Prepetition Secured Creditors and McKesson are each entitled to receive adequate protection as set forth in this Final Order pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any Diminution in Value (as defined herein) of each of their respective interests in the Prepetition Collateral (including Cash Collateral) or VMF Collateral.

(ii) **Good Cause; Need for Postpetition Financing**. Good cause has been shown for the entry of this Final Order. An immediate and continuing need exists for the Debtors to obtain funds from the DIP Loan in order to continue operations, continue to serve the Debtors mission to provide vital, lifesaving patient care for vulnerable populations and to administer and preserve the value of their estates. The ability of the Debtors to finance their operations, to preserve and maintain the value of the Debtors' assets and to maximize a return for all creditors requires the availability of working capital from the DIP Loan, the absence of which would immediately and irreparably harm the Debtors, their estates and their creditors and the possibility for a successful

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reorganization or sale of the Debtors' assets as a going concern or otherwise. The proposed DIP Loan is in the best interests of the Debtors, their estates, and their creditors.

(iii) **No Credit Available on More Favorable Terms**. The Debtors have been unable to obtain (a) unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense, (b) credit for money borrowed secured solely by a lien on property of the estate that it not otherwise subject to a lien, (c) credit for money borrowed secured by a junior lien on property of the estate which is subject to a lien, (d) or credit otherwise on more favorable terms and conditions than those provided in the DIP Credit Agreement and this Final Order. The Debtors are unable to obtain credit for borrowed money without granting to the DIP Agent and DIP Lender the DIP Protections (as defined below).

L. **Use of Proceeds of the DIP Facility.** Proceeds of the DIP Facility (net of any amounts used to pay fees, costs and expenses under the DIP Financing Agreements) are to be utilized by the Debtors until the DIP Facility Termination Date in accordance with the DIP Budget and in a manner consistent with the terms and conditions of the DIP Credit Agreement, and this Final Order.

M. **Application of Sale Proceeds of DIP Collateral.** As provided by the Interim Order, this Final Order and the DIP Credit Agreement, the DIP Liens shall attach as first priority liens and security interests, pursuant to section 364(d) of the Bankruptcy Code and the DIP Financing Agreements, to all proceeds of any sale or other disposition of the Debtors' property, including, without limitation, the Healthcare Facilities (as defined in the DIP Credit Agreement) and any other DIP Collateral (as defined below) (the "***Sale Proceeds***"). The Sale Proceeds shall be held in escrow in one or more deposit accounts subject to a deposit account control agreement in favor of the DIP Agent (the "***Escrow Deposit Account***"). Any funds held in the Escrow Deposit Account shall not be commingled with any other funds of the selling Debtor, the Sale Proceeds of any other Debtor or otherwise. The DIP Agent is granted a first priority lien on the Escrow Deposit Account and all Sale Proceeds, including any deposit provided by any buyer in connection with any asset sale, and such proceeds, deposits, and the Escrow Deposit Account shall constitute Collateral under the DIP Credit Agreement and DIP Collateral under this Final Order. On the Revolving Loan Termination

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Date (as defined in the DIP Credit Agreement), the DIP Agent and the DIP Lender shall apply any and all amounts remaining on deposit in the Escrow Deposit Account to the outstanding principal amount of the DIP Loan, together with accrued and unpaid DIP Obligations, with any remaining balance to be delivered to the Debtors subject to any Prepetition Liens, VMF Liens, Prepetition Replacement Liens and VMF Replacement Liens; provided, however, that upon any Debtor's request and with the consent of the DIP Agent and DIP Lender (which consent may, for the avoidance of doubt, be withheld in its sole discretion), any Sale Proceeds and deposits provided in connection with any asset sale may be disbursed to the Prepetition Secured Creditors or McKesson on terms and conditions that are acceptable to the DIP Agent and DIP Lender in its sole discretion and upon further order of this Court.

N. **Adequate Protection for Prepetition Secured Creditors and McKesson.** The priming of the Prepetition Secured Creditors' Prepetition Liens and the VMF Liens to the extent set forth in the Interim Order and this Final Order, pursuant to section 364(d) of the Bankruptcy Code is necessary to obtain the DIP Financing. In exchange for the priming of the Prepetition Liens and the VMF Liens set forth below, the Prepetition Secured Creditors and McKesson shall be entitled to receive adequate protection, as set forth in this Final Order, pursuant to sections 361, 363 and 364 of the Bankruptcy Code, for any diminution in the value of their respective interests in the Prepetition Collateral or VMF Collateral resulting from, among other things, the subordination to the Carve Out (as defined herein) and to the DIP Liens (as defined herein), the Debtors' use, sale or lease of such Prepetition Collateral or VMF Collateral, including Cash Collateral, and the imposition of the automatic stay from and after the Petition Date (collectively, and solely to the extent of such diminution in value, the "***Diminution in Value***"). As to the VMF Collateral, any adequate protection, as set forth in this Final Order, pursuant to sections 361, 363 and 364 of the Bankruptcy Code, for any Diminution in Value of Prepetition Secured Creditors' interests in the Prepetition Collateral are subordinated to any similar adequate protection provided to McKesson. VMF shall also pay McKesson (A) $3,055,000.00 in satisfaction of the balance of McKesson's Prepetition Secured Debt on the following schedule: (1) October 5, 2018 - $1,700,000.00; (2) October 26, 2018 - $700,000.00; and (3) November 2, 2018 - $655,000.00 (plus

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McKesson's attorneys' fees and costs incurred through October 31, 2018) (the "***McKesson Secured Payments***"). The McKesson Secured Payments will be included within the DIP Budget line item for Debtors' critical vendor program. Payment of McKesson's attorneys' fees will be included in the DIP Budget line item for Prepetition Secured Creditor Adequate Protection Payments. The Prepetition Secured Creditors have negotiated in good faith regarding the Debtors' use of the Prepetition Collateral to help fund the administration of the Debtors' estates along with the proceeds of the DIP Financing. Based on the DIP Motion and the record presented to the Court at the Interim Hearing and the Final Hearing, the terms of the proposed adequate protection arrangements are fair and reasonable, reflect the Debtors' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the consent of the Prepetition Secured Creditors and McKesson; provided, however, that nothing herein shall limit the rights of any of the Prepetition Secured Creditors or McKesson to hereafter seek new, additional, or different adequate protection; provided further, that nothing herein shall limit the rights of all parties in interest to assert or challenge any determination or assertion with respect to the existence or quantification of any Diminution of Value.

O. **Extension of Financing**. The DIP Agent and DIP Lender have indicated a willingness to provide financing to the Debtors in accordance with the DIP Credit Agreement.

P. **Business Judgment and Good Faith Pursuant to Section 364(e).**

(i) The terms and conditions of the DIP Facility and the DIP Financing Agreements, and the fees paid and to be paid thereunder are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration;

(ii) The DIP Financing Agreements were negotiated in good faith and at arms' length between the Debtors, the DIP Agent and the DIP Lender;

(iii) The proceeds to be extended under the DIP Facility will be so extended in good faith, and for valid business purposes and uses; and

(iv) Each of the DIP Agent and DIP Lender has acted to date and is acting in good faith with respect to the DIP Facility and the terms and conditions of the DIP Credit

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Agreement and the other DIP Financing Agreements. The DIP Agent's and DIP Lender's claims, superpriority claims, security interests and liens and other protections granted pursuant to the Interim Order, this Final Order and the DIP Financing Agreements will not be affected or avoided by any subsequent reversal or modification of this Final Order, as provided in section 364(e) of the Bankruptcy Code.

Q. **Relief Essential; Best Interest; Good Cause**. The relief requested in the DIP Motion (and as provided in this Final Order) is necessary, essential, and appropriate for the preservation of the Debtors' assets, business and property. It is in the best interest of the Debtors' estates to be allowed to establish the DIP Facility contemplated by the DIP Credit Agreement. Good cause has been shown for the relief requested in the DIP Motion (and as provided in this Final Order).

R. **Consent to Use of Cash Collateral**. Each of the Prepetition Secured Creditors and McKesson have consented to the use of their respective interests in Cash Collateral, subject to the terms and conditions set forth in this Order.

NOW, THEREFORE, on the DIP Motion and the record before this Court with respect to the DIP Motion, including the record created during the Interim Hearing and the Final Hearing, and with the consent of the Debtors, the Prepetition Secured Creditors and the DIP Agent and DIP Lender to the form and entry of this Final Order, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Motion Granted**. The DIP Motion is granted on a final basis in accordance with the terms and conditions set forth in this Final Order and the DIP Credit Agreement. Any objections to the DIP Motion with respect to entry of this Final Order to the extent not withdrawn, waived or otherwise resolved, and all reservations of rights included therein, are hereby denied and overruled.

2. **DIP Financing Agreements.**

(a) **Approval of Entry into DIP Financing Agreements**. The Debtors are authorized, empowered and directed to execute and deliver the DIP Financing Agreements and to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Final

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Order and the DIP Financing Agreements, and to execute and deliver all instruments and documents which may be required or necessary for the performance by the Debtors under the DIP Financing Agreements and the creation and perfection of the DIP Liens described in and provided for by this Final Order and the DIP Financing Agreements. The Debtors are hereby authorized and directed to do and perform all acts, pay the principal, interest, fees, expenses, indemnities and other amounts described in the DIP Financing Agreements as such amounts become due and payable without need to obtain further Court approval, including closing fees, unused line fees, administrative agent's fees, collateral agent's fees, and the reasonable fees and disbursements of the DIP Agent's and the DIP Lenders' respective attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Final Order or the DIP Financing Agreements. All collections and proceeds, whether from ordinary course collections, asset sales, debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as required by this Final Order and the DIP Financing Agreements. The DIP Financing Agreements represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms, including, without limitation, commitment fees and reasonable attorneys' fees and disbursements as provided for in the DIP Credit Agreement, which amounts shall not otherwise be subject to approval of this Court,. The Debtors shall pay the deferred balance of the commitment fee required by section 2.9(a) of the DIP Credit Agreement upon entry of this Final Order.

(b) **Authorization to Borrow and/or Guarantee**. To enable them to continue to preserve the value of their estates and dispose of their assets in an orderly fashion, during the period prior to termination of the DIP Credit Agreement and subject to the terms and conditions of this Final Order, upon the execution of the DIP Credit Agreement and the other DIP Financing Agreements the Debtors are hereby authorized to borrow the DIP Loan up to a total committed amount of $185,000,000 under the DIP Financing Agreements.

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(c) **Conditions Precedent.** Neither the DIP Agent nor the DIP Lender have any obligation to make the DIP Loan or any loan or advance under the DIP Credit Agreement unless the conditions precedent to making such loan under the DIP Credit Agreement have been satisfied in full or waived by the DIP Agent and DIP Lender in their sole discretion.

(d) **DIP Collateral; DIP Liens**. Effective immediately upon the entry of this Final Order, on account of the DIP Loan, the DIP Agent shall be and is hereby granted first-priority security interests and liens (which shall immediately be valid, binding, permanent, continuing, enforceable, perfected and non-avoidable) on all of the Debtors' property, including, without limitation, the Sale Proceeds and the Escrow Deposit Account, whether arising before or after the Petition Date (collectively, the "***DIP Collateral***," and all such liens and security interests granted on or in the DIP Collateral pursuant to this Final Order and the DIP Financing Agreements, the "***DIP Liens***"), but shall exclude the Program Funds, and proceeds of the Clean Fund Bonds and NR2 Petros Bonds held by WTNA, donor restricted funds held at Philanthropic Foundations, Avoidance Actions (defined below) and any proceeds thereof and any funds held by the Prepetition Secured Creditors (set forth on **Exhibit 1** to the Chou Decl.), provided, however, for the avoidance of doubt, any amounts held in accounts owned by the Debtors, whether or not such accounts are subject to control agreements in favor of the Prepetition Secured Creditors, shall constitute DIP Collateral. The DIP Collateral shall not be subject to any surcharge under section 506(c) or any other provision of the Bankruptcy Code or other applicable law, nor by order of this Court.

(e) **DIP Lien Priority**. Subject only to the Carve Out (as defined below) and the prepetition tax lien arising in connection with the CSCDA Special Assessments, the DIP Liens shall, pursuant to section 364(d)(1) of the Bankruptcy Code, be perfected, continuing, enforceable, non-avoidable first priority senior priming liens and security interests on the DIP Collateral, and shall prime all other liens and security interests on the DIP Collateral, including any liens and security interests in existence on the Petition Date against the Prepetition Collateral and VMF Collateral, and any other current or future liens granted on the DIP Collateral, including any adequate protection or replacement liens granted on the DIP Collateral (collectively, the "***Primed Liens***") (other than the Debtors' claims and causes of action under sections 502(d), 544, 545, 547,

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548, 549, 550 and 553 of the Bankruptcy Code, and any other avoidance or similar actions under the Bankruptcy Code or similar state law (the "***Avoidance Actions***"), whether received by judgment, settlement or otherwise. Without limiting the foregoing, the DIP Liens shall not be made subject to, subordinate to, or *pari passu* with any lien or security interest by any court order heretofore or hereafter granted in the Chapter 11 Cases. The DIP Liens shall be valid and enforceable against any trustee appointed in the Chapter 11 Cases, upon the conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (any "***Successor Cases***"), and/or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. Other than the Carve Out, no costs, expenses, claims, or liabilities that have been or may be incurred by Debtors during these Chapter 11 Case, or in any Successor Cases, will be senior to, prior to, or on parity with the DIP Liens.

(f) **Enforceable Obligations**. The DIP Financing Agreements shall constitute and evidence the valid and binding obligations of the Debtors, which obligations shall be enforceable against the Debtors, their estates and any successors thereto and their creditors or representatives thereof, in accordance with their terms.

(g) **Protection of DIP Agent, DIP Lender and Other Rights**. From and after the Petition Date, the Debtors shall use the proceeds of the extensions of credit under the DIP Facility only for the purposes specifically set forth in the DIP Credit Agreement and this Final Order and in strict compliance with the DIP Budget (subject to any variances thereto permitted by the DIP Credit Agreement).

(h) **Additional Protections of DIP Agent and DIP Lender: Superpriority Administrative Claim Status**. Subject to the Carve Out (as defined below), all DIP Obligations shall constitute an allowed superpriority administrative expense claim (the "***DIP Superpriority Claim***" and, together with the DIP Liens, the "***DIP Protections***") with priority in all of the Chapter 11 Cases and Successor Cases over all other administrative expense claims under sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the

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kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 1113 and 1114 and any other provision of the Bankruptcy Code except as otherwise set forth herein, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment. The DIP Superpriority Claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtors and all proceeds thereof. Without limiting the foregoing, the DIP Superpriority Claim shall not be made subject to, subordinate to, or *pari passu* with any other administrative claim in the Chapter 11 Cases or Successor Cases, except for the Carve Out (as defined below). Other than the Carve Out, no costs, expenses, claims, or liabilities that have been or may be incurred by Debtors during these Chapter 11 Cases, or in any Successor Cases, will be senior to, prior to, or on parity with the DIP Superpriority Claim.

3. **Authorization to Use Proceeds of DIP Facility**. Pursuant to the terms and conditions of this Final Order, the DIP Credit Agreement and the other DIP Financing Agreements, and in accordance with the DIP Budget and the variances thereto set forth in the DIP Credit Agreement, the Debtors are authorized to use the advances under the DIP Credit Agreement during the period commencing immediately after the entry of this Final Order and terminating upon the termination of the DIP Credit Agreement in accordance with its terms and subject to the provisions hereof.

4. **Application of Sale Proceeds of DIP and Prepetition Secured Creditor Collateral.** The DIP Liens shall attach as first priority liens and security interests, pursuant to section 364(d) of the Bankruptcy Code, the Interim Order, this Final Order and the DIP Financing Agreements, to the Sale Proceeds. The Sale Proceeds shall be allocated by Debtors and held in escrow in the Escrow Deposit Accounts. Funds held in any Escrow Deposit Account shall not be commingled with any other funds of the applicable Debtor or any of the other Debtors and, without limitation of the rights of the DIP Agent and DIP Lender under the DIP Financing Agreements and this Final Order with respect to the Sale Proceeds and Escrow Deposit Account, including, without limitation, following the occurrence of an Event of Default or the Revolving Loan Termination Date (as defined in the DIP Credit Agreement), the Debtors shall not be permitted to use Cash Collateral of any of the Prepetition Secured Creditors held in any Escrow Deposit Account for any purpose without first

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obtaining the consent of the applicable Prepetition Secured Creditor or obtaining an order of the Court pursuant to Section 363 of the Bankruptcy Code after notice and a hearing. The DIP Agent is granted a first priority lien on the Escrow Deposit Accounts and all Sale Proceeds, including any deposit provided by any buyer in connection with any asset sale, and such proceeds, deposits, and the Escrow Deposit Account shall constitute Collateral under the DIP Credit Agreement and DIP Collateral under this Final Order. On the Revolving Loan Termination Date (as defined in the DIP Credit Agreement), the DIP Agent may apply amounts held in Escrow Deposit Accounts to the outstanding DIP Obligations due under the DIP Credit Agreement. Without limiting the foregoing, and subject and subordinate in all respects to the first priority priming DIP Lien and Prepetition Replacement Liens to the extent set forth in this Final Order, the Prepetition Secured Creditors' Prepetition Liens shall be deemed to attach to the Escrow Deposit Accounts and the Sale Proceeds with the same relative priority, validity, force, extent and effect as the Prepetition Liens attached to the Prepetition Collateral giving rise to such Sale Proceeds. Each of the Prepetition Secured Creditors shall have the right to seek a declaration of their respective rights in and to any of the Sale Proceeds and funds held in a Deposit Escrow Account, consistent with and subject to the terms and conditions of this Final Order and the DIP Financing Agreements, and the Court shall determine all such disputes in accordance with this Final Order, the DIP Financing Agreements, the Prepetition Secured Documents, and applicable law.

5. **Adequate Protection for Prepetition Secured Creditors**. As adequate protection for the interests of the Prepetition Secured Creditors in the Prepetition Collateral and McKesson in the VMF Collateral, on account of the granting of the DIP Liens, subordination to the Carve Out (as defined below), any Diminution in Value arising out of the Debtors' use, sale, or disposition or other depreciation of the Prepetition Collateral, including Cash Collateral or the VMF Collateral, resulting from the automatic stay, the Prepetition Secured Creditors and McKesson shall receive adequate protection as follows:

(a) **Adequate Protection Replacement Liens**. To the extent of the Diminution in Value of the interest of the respective Prepetition Secured Creditors in Prepetition Collateral that secures their respective claims, each of the affected Prepetition Secured Creditors shall be granted,

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subject to the terms and conditions set forth below, pursuant to sections 361, 363(e), and 364(d) of the Bankruptcy Code additional valid, perfected and enforceable replacement security interests and Liens in the DIP Collateral, (the "***Prepetition Replacement Liens***"), which Prepetition Replacement Liens shall be junior only to (1) the Carve Out, (2) ~~to~~ the DIP Liens, (3) the VMF Liens in VMF Collateral and (4) any perfected, unavoidable, prepetition liens granted by Holdings pursuant to those certain deeds of trust issued in connection with the MOB Financing and that certain Deed of Trust with Fixture Filing and Security Agreement and Assignment of Leases and Rents by Holdings in favor of U.S. Bank as 2017 Note Trustee and Deed of Trust Beneficiary, dated as of September 15, 2017, as further amended or modified (the "***Moss Deed of Trust***") to secure the Series 2017 Working Capital Notes; *provided, however*, that any Prepetition Replacement Liens granted to the 2015 Note Trustee and/or 2017 Note Trustee on account of the Diminution in Value of the Priority Assets as defined in the Intercreditor Agreement shall be senior to the Prepetition Replacement Liens granted to any other Prepetition Secured Creditors and junior to (i) the Carve Out, (ii) the DIP Liens securing the DIP Obligations, and (iii) perfected, unavoidable, prepetition liens granted by Holdings pursuant to those certain deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust, and *further provided* that any Prepetition Replacement Liens granted to the holders of deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust, on account of the Diminution in Value of such Prepetition Collateral shall be senior to the Prepetition Replacement Liens granted to any other Prepetition Secured Creditors and junior to (x) the Carve Out, (y) the DIP Liens securing the DIP Obligations, and (z) perfected, unavoidable, prepetition liens of the Master Trustee, the 2015 Note Trustee and/or the 2017 Note Trustee on property other than the property subject to the Moss Deed of Trust. With respect to the Prepetition Collateral that is subject to the Intercreditor Agreement, any proceeds of such Prepetition Collateral or Prepetition Replacement Liens related thereto shall be allocated among the Prepetition Secured Creditors in accordance with the terms of the Second Amended and Restated Intercreditor Agreement. Unless otherwise ordered by the Court, the Intercreditor Agreement shall not be deemed to be amended, altered or modified by the terms of this Final Order or the DIP Financing Agreements. With respect to the VMF Collateral, McKesson

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shall be entitled to a replacement lien on the postpetition assets of VMF, excluding Avoidance Actions ("***VMF Replacement Lien***"), to the extent of (1) any Diminution in Value in such VMF Collateral, and (2) any McKesson Post-Petition Trade Credit, which amounts shall be senior to the Prepetition Replacement Liens, but junior to the (m) Carve Out, and (n) the DIP Liens.

(b) **Adequate Protection Payments and Protections**. So long as there is no Default or Event of Default under the Interim Order, this Final Order, or the DIP Financing Agreements, the Debtors are also authorized and directed to provide (I) to the Prepetition Secured Creditors monthly adequate protection payments equal to (A) the amount of postpetition, non-default contractual interest on the outstanding balances of the Prepetition Secured Obligations, provided that reference to the non-default contractual rate of interest shall not include any Penalty Rate, Default Rate or the Tax Rate as defined in the Prepetition Secured Documents, plus (B) monthly payment of reasonable trustee fees for each of (1) Wells Fargo, (2) UMB Bank as Master Trustee, (3) U.S. Bank as 2015 Note Trustee, and (4) U.S. Bank as 2017 Note Trustee, respectively, and (C) reimbursement of reasonable attorney's fees for one set of attorneys for (1) Wells Fargo as the successor indenture trustee for the 2005 Bonds, (2) UMB Bank as Master Trustee, (3) U.S. Bank as 2015 Note Trustee, (4) U.S. Bank as 2017 Note Trustee, and (5) MOB Financing and reimbursement of reasonable financial advisor fees for one set of financial advisors for (1) Wells Fargo as the successor indenture trustee for the 2005 Bonds and UMB Bank as Master Trustee, (2) U.S. Bank as 2015 Note Trustee and 2017 Note Trustee and (3) MOB Financing; and (II) payments by the Debtors to McKesson consistent with certain terms of the interim and final orders authorizing the Critical Vendor Program (as defined in the Debtors First Day Motions) in an amount of $3,055,000.00 (collectively I and II are the "***Prepetition Adequate Protection Payments***"). Notwithstanding the foregoing, to the extent the Court enters a final and non-appealable order that determines, pursuant to sections 506(a) or (b) of the Bankruptcy Code, that the Prepetition Adequate Protection Payments under (I) and (II) above are not properly entitled to payment of interest and fees on one or more of the respective Prepetition Secured Obligations to which they were made, the Prepetition Adequate Protection Payments may be re-characterized as payment(s) applied to the principal amount of the respective Prepetition Secured Obligations.

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(c) **McKesson Secured Payments.** As set forth herein, so long as no Revolving Loan Termination Event has occurred under the DIP Credit Agreement, the Debtors are hereby authorized and directed to make all McKesson Secured Payments on or before their respective due dates and are authorized to make payments on McKesson's Post-Petition Trade Credit, on the terms agreed to between McKesson and the Debtors provided herein.

(d) **Prepetition Superpriority Claim**. To the extent of the Diminution in Value of the interest of the respective Prepetition Secured Creditors in Prepetition Collateral, each of the affected Prepetition Secured Creditors shall be granted, subject to the terms and conditions set forth below, an allowed superpriority administrative expense claim (the "***Prepetition Superpriority Claims***"), which shall have priority (except with respect to (i) the DIP Liens, (ii) the DIP Superpriority Claim, (iii) the Carve Out, and (iv) any claims granted by Holdings pursuant to those certain deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust) in the Chapter 11 Cases under sections 363(c)(1), 503(b) and 507(b) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtors and their estates, now existing or hereafter arising of any kind or nature whatsoever including, without limitation, administrative expenses of the kind specified or ordered pursuant to sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d) 552, 726, 1113 and 1114 of the Bankruptcy Code, and upon entry of this Final Order, section 506(c) of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment Lien or other non-consensual Lien, levy or attachment; *provided, however*, that any Prepetition Superpriority Claim granted to the 2015 Note Trustee and/or 2017 Note Trustee on account of the Diminution in Value of the Priority Assets as defined in the Intercreditor Agreement shall have priority over the Prepetition Superpriority Claims granted to any other Prepetition Secured Creditors (except with respect to (i) the DIP Liens, (ii) the DIP Superpriority Claim, (iii) the Carve Out, and (iv) claims associated with the MOB Financing and the Moss Deed of Trust) and *further provided* that any Prepetition Superpriority Claim granted to the holders of those certain deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust, on account of the Diminution in Value of such Prepetition Collateral shall be senior to the Prepetition Superpriority Claims granted

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to any other Prepetition Secured Creditors (except with respect to (i) the DIP Liens, (ii) the DIP Superpriority Claim, (iii) the Carve Out, and (iv) the claims of the Master Trustee, the 2015 Note Trustee and/or the 2017 Note Trustee on property other than the property subject to the Moss Deed of Trust). With respect to the Prepetition Collateral that is subject to the Second Amended and Restated Intercreditor Agreement, any proceeds of such Prepetition Collateral or Prepetition Superpriority Claim related thereto shall be allocated among the Prepetition Secured Creditors in accordance with the terms of the Second Amended and Restated Intercreditor Agreement.

(e) **Validity, Perfection and Amount of Prepetition Liens**. The Debtors further acknowledge and agree that, as of the Petition Date, (a) the Prepetition Liens securing the Prepetition Secured Obligations on the Prepetition Collateral and the VMF Liens on the VMF Collateral were valid, binding, enforceable, non-avoidable, and properly perfected and were granted to, or for the benefit of, the Prepetition Secured Creditors and McKesson, (b) the Prepetition Liens were senior in priority over any and all other Liens on the Prepetition Collateral except the prepetition tax lien arising in connection with the CSCDA Special Assessments, and (c) the VMF Liens were senior in priority over any and all other Liens on VMF Collateral. The findings and stipulations set forth in this Final Order with respect to the validity, enforceability and amount of the Prepetition Secured Obligation and the Prepetition Liens shall be binding on any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including the Committee, unless, and solely to the extent that, a party in interest with requisite standing and authority (other than the Debtors, as to which any Challenge (as defined below) is irrevocably waived and relinquished) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph 4(d)) challenging the Prepetition Liens (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a "***Challenge***") within ninety (90) days from the formation of the Committee (the "***Challenge Deadline***"); *provided* that for purposes of filing a Challenge, the Committee shall be deemed to have standing to file the requisite pleading

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without further ~~a~~ order of the Court; and *provided further*, that the "Challenge Deadline" for matters solely relating to the value of the Prepetition Collateral may be further extended to such time as may be agreed by stipulation among the Debtors, the Committee and the Prepetition Secured Creditors or as further ordered by the Court. The foregoing limitation on use of Prepetition Collateral or its proceeds shall only be amended upon further order of this Court and the consent of both the Prepetition Secured Creditors, the DIP Agent and the DIP Lender. The Debtors shall not use the Prepetition Collateral, VMF Collateral or their proceeds to investigate or prosecute claims against the Prepetition Secured Creditors or McKesson, including Avoidance Actions, *provided however* that the Committee may investigate the existence of such claims and have allowed fees paid from the Prepetition Collateral or VMF Collateral and the proceeds of the DIP Facility up to the amount of $250,000, *provided further however* that no Prepetition Collateral or VMF Collateral, the proceeds thereof or the proceeds of the DIP Facility may be used to prosecute claims against Prepetition Secured Creditors or McKesson. For the avoidance of doubt, the Debtors, on behalf of their estates, do not release or indemnify the Prepetition Secured Creditors or McKesson from any Challenge raised by third parties, including the Committee, to the validity, amount or enforceability of the Prepetition Secured Obligations and the Prepetition Liens or the VMF Liens.

(f) **Sections 506(c) and 552(b)**. In light of the Prepetition Secured Creditors' and McKesson's' agreements that their Prepetition Liens and VMF Liens, respectively, shall be subject to the Carve Out and subordinate to the DIP Liens, the Prepetition Secured Creditors and McKesson are each entitled to a waiver of any "equities of the case" exception under section 552(b) of the Bankruptcy Code, and a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(g) Nothing contained in this Final Order shall prevent the Prepetition Secured Creditors from application or use of the funds held thereby that are not DIP Collateral in accordance with the Prepetition Secured Documents. Each of the Prepetition Secured Creditors reserves the right to seek additional or further adequate protection from the Court. The Debtors and the Committee each reserves the right to object to any such request for additional or further adequate protection.

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6. **Budget Maintenance**. The proceeds of the DIP Loan under the DIP Facility and the use of Cash Collateral shall be subject to, and in accordance with, the terms and conditions of the DIP Financing Agreements and the DIP Budget. The DIP Budget shall be delivered to the DIP Agent with such supporting documentation as reasonably requested by the DIP Agent. The DIP Budget shall be prepared in good faith based upon assumptions that the Debtors believe to be reasonable. A copy of any DIP Budget shall be delivered to counsel for the Committee and the U.S. Trustee and counsel for the Prepetition Secured Creditors after it has been approved in accordance with the DIP Financing Agreements. The Debtors shall provide at least two (2) business days' notice to counsel for the Committee and the Prepetition Secured Creditors prior to the effective date of any change in the DIP Budget.

7. **Budget Compliance and Reporting**. The proceeds of the DIP Facility and the use of Cash Collateral shall be subject to, and used in accordance with, the terms and conditions of the DIP Financing Agreement and the DIP Budget (subject to the variances set forth therein). Debtors acknowledge and confirm that the DIP Budget includes the payment of CSCDA Special Assessments. The Debtors shall provide all reports and other information as required in the DIP Credit Agreement (subject to the grace periods provided therein), with copies delivered substantially contemporaneously to counsel for the Prepetition Secured Creditors and counsel to the Committee, such information to include reasonably complete details on the payments contemplated by the Critical Vendors Motion and the Utilities Motion, as defined in the Adcock Declaration, and such information to be timely provided, sufficient for the Prepetition Secured Creditors to file an objection with this Court on two business days' notice. The Debtors' failure to comply with the DIP Budget (including the variances set forth in the DIP Credit Agreement) or to provide the reports and other information required in the DIP Credit Agreement shall constitute an Event of Default (as defined herein), following the expiration of any applicable grace period set forth in the DIP Credit Agreement. Subject to the execution and continuation of valid and binding confidentiality agreements, the Debtors shall provide to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors and the Committee information concerning (i) the Debtors' efforts to obtain debtor in possession financing proposals, including any proposals the Debtors received, and

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(ii) the Debtors' ongoing efforts to market their assets, including all marketing materials used by the Debtors in this process, information identifying the parties the Debtors have contacted, copies of any proposals or expressions of interest, and other information concerning these matters as the DIP Agent or the Prepetition Secured Creditors may reasonably request.

8. **Postpetition Lien Perfection.** This Final Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the DIP Liens, the Prepetition Replacement Liens and the VMF Replacement Lien, and all rights granted in and to the Escrow Deposit Accounts and the Sale Proceeds, without the necessity of filing or recording any financing statement, deeds of trust, mortgages, or other instruments or documents which may otherwise be required under the law of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement or obtaining possession of any possessory collateral) to validate or perfect the DIP Liens, Prepetition Replacement Liens or VMF Replacement Lien, or to entitle the DIP Liens, Prepetition Replacement Liens and VMF Replacement Lien the respective priorities granted herein. Notwithstanding and without limiting the foregoing, the DIP Agent may file such financing statements, mortgages, deeds of trust, notices of liens and other similar documents as it deems appropriate, and it is hereby granted relief from the automatic stay of section 362 of the Bankruptcy Code in order to do so, and all such financing statements, mortgages, deeds of trust, notices and other documents shall be deemed to have been filed or recorded at the time and on the date of the commencement of the Chapter 11 Cases. Notwithstanding and without limiting the foregoing provisions regarding the validity, perfection, and priority of the DIP Liens, the Debtors shall execute and deliver to the DIP Agent and DIP Lender all such financing statements, mortgages, deeds of trust, deposit account control agreements, notices and other documents as the DIP Agent and DIP Lender may reasonably request to evidence, confirm, validate or perfect, or to insure the contemplated priority of, the DIP Liens granted pursuant hereto and the DIP Financing Agreements. Any such financing statements, mortgages, deeds of trust, deposit account control agreements, notices and other documents shall be considered DIP Financing Agreements for all intents and purposes. The DIP Agent, in its discretion, may file a certified copy of this Final Order as a financing statement with any recording officer designated

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to file financing statements or with any registry of deeds or similar office in any jurisdiction in which any Debtor has real or personal property, and in such event, the recording officer shall be authorized to file or record such copy of this Final Order. To the extent that any Prepetition Secured Creditor is the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements, or any other Prepetition Secured Documents or is listed as loss payee or additional insured under any of the Debtors' insurance policies, the DIP Agent shall also be deemed to be the secured party under such documents or to be the loss payee or additional insured, as applicable.

9. **Application of Proceeds of Collateral**. As a condition to the continued extension of credit under the DIP Facility and the continued authorization to use Cash Collateral, the Debtors have agreed that as of and commencing on the Closing Date the Debtors shall apply all advances under the DIP Facility, as follows: (i) *first*, to fund the day to day operations and general corporate purposes of the Debtors' estates; (ii) *second*, to pay the administrative expenses of the Chapter 11 Cases; and (iii) *third*, to make the Prepetition Adequate Protection Payments all in accordance with the DIP Budget.

10. **Proceeds of Subsequent Financing**. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code sections 364(b), 364(c), or 364(d) or in violation of the DIP Financing Agreements at any time prior to the indefeasible repayment in full of all DIP Obligations and Prepetition Secured Obligations (to the extent such remain outstanding), and the termination of the DIP Agent's and the DIP Lenders' obligation to extend credit under the DIP Facility, including subsequent to the confirmation of any chapter 11 plan of reorganization with respect to any or all of the Debtors and the Debtors' estates, and such facility is secured by any DIP Collateral, then all the cash proceeds derived from such credit or debit shall immediately be turned over to the DIP Agent to be applied in accordance with this Final Order and the DIP Financing Agreements.

11. **Cash Collection**.

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(a) From and after the date of the entry of this Final Order, all collections and proceeds of any DIP Collateral or Prepetition Collateral and all Cash Collateral that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall be promptly deposited in accounts as specified in the DIP Credit Agreement (or in such other accounts as are designated by the DIP Agent from time to time) (collectively, the "***Cash Collection Accounts***"), which accounts shall be subject to the sole dominion and control of the DIP Agent. It is understood and agreed by the Debtors and the DIP Agent that, unless a "Default" or an "Event of Default" under the DIP Credit Agreement has occurred and is continuing, for so long as there are no amounts outstanding under the DIP Facility, proceeds in the Cash Collection Accounts shall be returned to the Debtors and the Debtors shall be authorized to use such Cash Collateral in accordance with this Final Order. All proceeds and other amounts in the Cash Collection Accounts shall be remitted to the DIP Agent for application in accordance with the DIP Financing Agreements. Unless otherwise agreed to in writing by the DIP Agent and the Prepetition Secured Creditors or as set forth in this Final Order, the Debtors shall maintain no accounts except those identified in the interim cash management order entered by the Court with respect thereto (the "***Cash Management Order***"), whether now existing or hereafter established. The Debtors and the financial institutions where the Debtors' Cash Collection Accounts are maintained (including those accounts identified in the Cash Management Order), are authorized and directed to remit, without offset or deduction, funds in such Cash Collection Accounts upon receipt of any direction to that effect from the DIP Agent. To the extent that a Prepetition Secured Creditor's perfection in or control over bank accounts or investment accounts, including any funds or investments therein, may be affected by reason of the transfer of control to the DIP Agent or any agent of the DIP Lenders in accordance with this Final Order, the perfection and control rights of such Prepetition Secured Creditor therein shall be deemed to continue, subject to the senior, priming rights of the DIP Lender and the DIP Lien in such bank accounts or investment accounts, for so long as the DIP Obligations remain outstanding, and thereafter shall revert back to such Prepetition Secured Creditor.

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(b) Notwithstanding anything in this Final Order or any of the DIP Financing Agreements, from and after the date of the entry of this Final Order, all collections and proceeds of any DIP Collateral or Prepetition Collateral that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall promptly be deposited into a depository account furnished by a depository bank acceptable to the DIP Agent and such account shall be in the name of the DIP Agent and subject to the sole dominion and control of the DIP Agent (such account, the "***DIP Collateral Account***"). The Debtors' use of the proceeds in the DIP Collateral Account shall be subject to this Final Order and the DIP Financing Agreements.

12. **Maintenance of DIP Collateral**. Until the indefeasible payment in full of all DIP Obligations, all Prepetition Secured Obligations, and the termination of the DIP Agent's and the DIP Lenders' obligation to extend credit under the DIP Facility, the Debtors shall: (a) insure the DIP Collateral as required under the DIP Facility or the Prepetition Secured Documents, as applicable; and (b) maintain the cash management system in effect as of the Petition Date, as modified by the Cash Management Order and this Final Order, and maintain books and records sufficient to account for postpetition intercompany transfers in a manner required by the Cash Management Order and the DIP Credit Agreement at section 5.6 or as otherwise agreed to by the DIP Agent or otherwise required or permitted by the DIP Financing Agreements or this Final Order.

13. **DIP and Other Expenses**. The Debtors are authorized and directed to pay all reasonable and documented prepetition and postpetition fees and expenses of the (1) DIP Agent, (including the fees, expenses, and disbursements of Waller, Lansden, Dortch & Davis, LLP, as counsel to the DIP Agent), (2) the DIP Lenders in connection with the DIP Facility, as provided herein and in the DIP Financing Agreements, or, if requested by the Debtors, incurred with a proposed conversion of the DIP Facility into exit financing (including the preparation and negotiation of the documentation relating to the exit facility), and (3) the Prepetition Secured Creditors and McKesson, whether or not the transactions contemplated hereby are consummated, including attorneys' fees, monitoring and appraisal fees, financial advisory fees, fees and expenses of other consultants, and indemnification and reimbursement of fees and expenses. Payment of all

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such fees and expenses shall not be subject to allowance by the Court. Professionals for the DIP Agent, the DIP Lenders and the Prepetition Secured Creditors and McKesson shall not be required to comply with the U.S. Trustee fee guidelines; however, any time that such professionals seek payment of fees and expenses from the Debtors, each professional shall provide summary copies of its invoices to the U.S. Trustee contemporaneously with the delivery of such invoices to the Debtors. Any objections raised by the Debtors, the U.S. Trustee or the Committee, with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) days of the receipt of such invoice; if after ten (10) days such objection remains unresolved, it will be subject to resolution by the Court. Pending such resolution, the undisputed portion of any such invoice will be paid promptly by the Debtors. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date all reasonable and documented fees, costs, and out-of-pocket expenses of the DIP Agent, the DIP Lenders and the Prepetition Secured Creditors incurred on or prior to such date without the need for any professional engaged by such parties to first deliver a copy of its invoice or other supporting documentation. No attorney or advisor to the DIP Agent, the DIP Lenders any Prepetition Secured Creditor or McKesson shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Upon entry of this Final Order, any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) DIP Agent or the DIP Lenders in connection with or with respect to the DIP Facility, and (ii) Prepetition Secured Creditors and McKesson in connection with or with respect to these matters, were approved in full and shall not be subject to avoidance, disgorgement or any similar form of recovery by the Debtors or any other person.

14. **Indemnification**. The Debtors shall indemnify and hold harmless the DIP Agent and the DIP Lenders in accordance with the terms and conditions of the DIP Credit Agreement.

15. **Right to Credit Bid**. The DIP Lender shall have the right, but not the obligation, to "credit bid" the DIP Obligations during any sale of the DIP Collateral, including without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any reorganization plan subject to confirmation under section 1129(b)(2)(A)(iii) of the Bankruptcy

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Code. Subject to the indefeasible payment in full of the DIP Obligations, the Prepetition Secured Creditors shall have the right but not the obligation to credit bid the Prepetition Secured Obligations during any sale of the Prepetition Collateral, including without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code.

16. **Carve Out**. The DIP Liens, DIP Superpriority Claim, and Prepetition Replacement Liens are subordinate only to the following: (i) all fees required to be paid to the clerk of the Court and to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) (the "***U.S. Trustee Fees***"), together with interest, if any, at the statutory rate; and (ii) all allowed claims for unpaid fees, costs and expenses incurred by persons or firms retained by the Debtors or the Committee, if any, whose retention is approved by the Court pursuant to any one or more of sections 327, 328, 363, and 1103 of the Bankruptcy Code, to the extent such claims for fees, costs and expenses are both (a) allowed by the Court pursuant to a final order, and (b) in accordance with, and solely up to the total respective amounts set forth in the DIP Budget for the applicable time frame (the "***Carve Out Expenses***"); provided that the aggregate amount of such Carve Out Expenses shall not exceed (a) $2,000,000 with respect to persons or firms retained by the Debtors, and (b) $150,000 with respect to persons or firms retained by the Committee (collectively, the "***Carve Out Amount***"). Any payment or reimbursement made after the Carve Out Trigger Date in respect of any Carve Out expenses shall permanently reduce the Carve Out Amount on a dollar-for-dollar basis.

17. **Limitation of Use of Proceeds**. Notwithstanding anything set forth herein and except as provided in the following paragraph, the Carve Out shall exclude any fees and expenses incurred in connection with initiating or prosecuting any claims, causes of action, adversary proceedings, or other litigation against the DIP Agent, the DIP Lender or any of the Prepetition Secured Creditors, including, without limitation, the assertion or joinder in any claim, counterclaim, action, proceeding, application, motion, objection, defenses or other contested matter, the purpose of which is to seek any order, judgment, determination or similar relief (i) invalidating, setting aside, disallowing, avoiding, challenging or subordinating, in whole or in part, (a) the DIP Obligations, (b) the Prepetition Secured Obligations, (c) the Prepetition Liens, (d) the VMF Liens or (e) the DIP Liens, or (ii) preventing, hindering or delaying, whether directly or indirectly, the DIP Agent's, the DIP

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Lender's, the Prepetition Secured Creditors' or McKesson's assertion or enforcement of their liens or security interests or realization upon any DIP Collateral, Prepetition Collateral, or VMF Collateral, or (iii) prosecuting any Avoidance Actions against the DIP Agent, the DIP Lender, any Prepetition Secured Creditor or McKesson, or (iv) challenging the amount, validity, extent, perfection, priority, or enforceability of, or asserting any defense, counterclaim, or offset to, the Prepetition Secured Obligations, or the McKesson Prepetition Debt, or the adequate protection granted herein, *provided however*, that nothing in this Final Order shall limit the right of the Debtors to challenge the reasonableness of attorney and financial advisory fees paid or proposed to be paid to Prepetition Secured Creditors or McKesson as adequate protection payments.

18. **Payment of Compensation.** Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of any of the Debtors or the Committee or shall affect the right of the DIP Agent, the DIP Lender, the Prepetition Secured Creditors or McKesson to object to the allowance and payment of such fees and expenses or to permit the Debtors to pay any such amounts not set forth in the DIP Budget.

19. **Section 506(c) Claims; Equities of the Case**. Nothing contained in this Final Order shall be deemed a consent by the DIP Agent, the DIP Lender or any Prepetition Secured Creditor to any charge, lien, assessment or claim against the DIP Collateral under Section 506(c) of the Bankruptcy Code or otherwise. The "equities of the case" exception under Section 552(b) of the Bankruptcy Code and surcharge powers under section 506(c) of the Bankruptcy Code are waived as to the Prepetition Creditors and all pre and postpetition collateral securing their claims.

20. **Collateral Rights.** Unless the DIP Agent and DIP Lender have provided their prior written consent or all DIP Obligations have been paid in full in cash (or will be paid in full in cash upon entry of an order approving indebtedness described in subparagraph (a) below), and all commitments by the DIP Agent and the DIP Lender to lend have terminated:

(a) The Debtors shall not seek entry, in these proceedings, or in any Successor Case, of any order which authorizes the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other lien on all or any portion of the DIP Collateral and/or entitled to priority administrative status which is senior or *pari passu* to the DIP

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Liens granted to the DIP Lender pursuant to this Final Order, the DIP Financing Agreements or otherwise;

(b) The Debtors shall not consent to relief from the automatic stay by any person other than the DIP Agent with respect to all or any portion of the DIP Collateral without the express written consent of the DIP Agent and the DIP Lender;

(c) In the event that the Debtors seek entry of an order in violation of subsection (a) hereof, the DIP Agent and DIP Lender shall be granted relief from the automatic stay with respect to the DIP Collateral pursuant to the notice procedures set forth in this Order; and

(d) The Parties to the DIP Credit Agreement agree that the Final Order does not impair the claims, rights, or ability, if any, to recoup, setoff or otherwise recover Medicare overpayments related to prepetition services by a Debtor ("***Prepetition Medicare Overpayments***") of the United States, its agencies, departments, agents or entities (collectively, "***United States***") from the payments made to such Debtor for services rendered after the Petition Date ("***Postpetition Medicare Payments***"), in accordance with the Medicare statutes, regulations, policies and procedures. The Parties to the DIP Credit Agreement further agree that the Final Order does not impair the United States' claims, rights or ability, if any, to recoup, setoff or otherwise recover any other prepetition debt a Debtor may owe to the United States from the Postpetition Medicare Payments due such Debtor in accordance with applicable law.

21. **Commitment Termination Date.** All DIP Obligations of the Debtors to the DIP Agent and the DIP Lender shall be immediately due and payable, and the Debtors' authority to use the proceeds of the DIP Facility shall cease, on the date that is the earliest to occur of: (i) September 7, 2019 (the "***Scheduled Termination Date***"); (ii) the date of revocation of this Final Order, as applicable; (iii) the substantial consummation (as defined in Section 1101 of the Bankruptcy Code and which for purposes hereof shall be no later than the "*effective date*") of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order entered by the Court; (iv) the consummation of a sale of all or substantially all of the DIP Collateral; (v) the date the Court orders the conversion of the Chapter 11 Cases to a Chapter 7 liquidation or the dismissal of the Chapter 11 Cases or the appointment of a trustee or examiner with expanded power in the Chapter 11 Cases;

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and (vi) the acceleration of the DIP Loan and the termination of the commitments with respect to the DIP Facility in accordance with the DIP Financing Agreements (the earliest of such dates, the "***Commitment Termination Date***"). The occurrence of the Commitment Termination Date, shall also constitute, subject to further Court order, termination of the Prepetition Secured Creditors' and McKesson consent to the Debtors' use of their prepetition Cash Collateral (the "**Carve Out Trigger Date**").

22. **Disposition of Collateral**. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, without the prior written consent of the DIP Agent and the DIP Lender (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Agent or the DIP Lender or an order of this Court), except as provided in the DIP Financing Agreements and this Final Order and approved by the Court to the extent required under applicable bankruptcy law. Nothing herein shall prevent the Debtors from making sales in the ordinary course of business to the extent consistent with the DIP Budget and as permitted in the DIP Financing Agreements.

23. **Events of Default.** The occurrence of a "Default" or an "Event of Default" pursuant to Section 9.1 the DIP Credit Agreement, including, without limitation, the "Bankruptcy Defaults" enumerated in Section 9.1(q) of the DIP Credit Agreement, shall constitute an event of default under this Final Order, unless expressly waived in writing in accordance with the consents required in the DIP Financing Agreements.

24. **Rights and Remedies Upon Event of Default.**

(a) Any otherwise applicable automatic stay is hereby modified so that after the occurrence of any Event of Default and at any time thereafter during the continuance of such Event of Default, the DIP Agent and the DIP Lender shall be entitled to exercise its rights and remedies with respect to the Debtors and the DIP Collateral provided in the DIP Financing Agreements and by applicable law, including, without limitation, foreclosing on and selling the DIP Collateral, without the need for further court approval or the consent of any other party.

(b) Notwithstanding the preceding paragraph, immediately following the giving of notice by the DIP Agent of the occurrence and continuance of an Event of Default, the DIP

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Agent shall have the right in its sole discretion to take any or all of the following actions: (i) declare the commitment of the DIP Lender to make the DIP Loan to be terminated; (ii) declare the unpaid principal amount of all outstanding DIP Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other DIP Financing Agreements to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by any Debtor; (iii) reduce the advance rates in respect of Eligible Accounts (as defined in the DIP Credit Agreement) or take additional reserves against or otherwise modify the Borrowing Base; and (iv) exercise all rights and remedies available to the DIP Agent and the DIP Lenders under the DIP Financing Agreements, including any right of set-off under Section 11.21 of the DIP Credit Agreement, or under the UCC or any other applicable law; *provided, however*, that upon the occurrence of an Event of Default under the DIP Credit Agreement, the obligation of the DIP Lenders to make the DIP Loan shall automatically terminate, the unpaid principal amount of all outstanding DIP Loans and other DIP Obligations and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the DIP Agent or any DIP Lender.

(c) Nothing included herein shall prejudice, impair, or otherwise affect the DIP Agent's or the DIP Lender's rights to seek any other or supplemental relief in respect of the DIP Agent's and the DIP Lender's rights, as provided in the DIP Credit Agreement.

25. **Limitation on Lender Liability**. Nothing in this Final Order, any of the DIP Financing Agreements, or any other documents related thereto shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Lenders or the Prepetition Secured Parties Creditors of any liability for any claims arising from any activities by the Debtors in the operation of their businesses or in connection with the administration of these Cases. The DIP Agent, the DIP Lenders and the Prepetition Secured Creditors shall not, solely by reason of having made loans under the DIP Facility, be deemed in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§

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9601 et seq., as amended, or any similar federal or state statute). Nothing in this Final Order or the DIP Financing Agreements shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Lenders, or any of the Prepetition Secured Creditors of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors.

26. **Insurance Proceeds and Policies**. As of the entry of this Final Order and to the fullest extent provided by applicable law, the DIP Agent (on behalf of the DIP Lenders) and the Prepetition Secured Creditors, shall be, and shall be deemed to be, without any further action or notice, named as additional insured and as lender's loss payee with the priority as to all rights and remedies as set forth herein and in the DIP Credit Agreement.

27. **Proofs of Claim**. Neither the DIP Agent nor the DIP Lender will be required to file proofs of claim in the Chapter 11 Cases. Any proof of claim so filed shall be deemed to be in addition and not in lieu of any other proof of claim that may be filed by any of the Prepetition Secured Creditors.

28. **Other Rights and Obligations**.

(a) **Good Faith Under Section 364(e) of the Bankruptcy Code**. **No Modification or Stay of this Final Order.** The Debtors, the DIP Agent, the DIP Lender, the Prepetition Secured Creditors and McKesson have acted in good faith in connection with negotiating the DIP Financing Agreements, extending credit under the DIP Facility, and authorizing use of Cash Collateral and rely on this Final Order in good faith. Based on the findings set forth in this Final Order and the record made during the Interim Hearing and the Final Hearing, and in accordance with section 364(e) of the Bankruptcy Code, in the event any or all of the provisions of this Final Order are hereafter reversed, modified amended or vacated by a subsequent order of this or any other Court, the DIP Agent, DIP Lender, Prepetition Secured Creditors and McKesson are entitled to the protections provided in section 364(e) of the Bankruptcy Code. Any such reversal, modification, amendment or *vacatur* shall not affect the validity and enforceability of any advances made pursuant to this Final Order or the DIP Financing Agreements, nor shall it affect the validity, priority, enforceability, or perfection of the DIP Liens, the Prepetition Replacement Liens or the

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VMF Replacement Lien. Any claims or DIP Protections granted to the DIP Agent and the DIP Lender hereunder, or adequate protection granted to the Prepetition Secured Creditors and McKesson hereunder, arising prior to the effective date of such reversal, modification, amendment or *vacatur*, shall be governed in all respects by the original provisions of this Final Order, and the DIP Agent, the DIP Lender, Prepetition Secured Creditors and McKesson shall be entitled to all of the rights, remedies, privileges and benefits, including the DIP Protections and adequate protection granted herein, with respect to any such claims. Since the loans made pursuant to the DIP Credit Agreement are made in reliance on this Final Order, the obligations owed to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors or McKesson prior to the effective date of any reversal or modification of this Final Order cannot, as a result of any subsequent order in the Chapter 11 Cases or in any Successor Cases, be subordinated, lose their lien priority or superpriority administrative expense claim status, or be deprived of the benefit of the status of the liens and claims granted to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors or McKesson under this Final Order and/or the DIP Financing Agreements.

(b) **Binding Effect**. The provisions of this Final Order shall be binding upon and inure to the benefit of the DIP Agent, DIP Lender, the Debtors, the Prepetition Secured Creditors, McKesson, the Committee, all other Parties in Interest, and all creditors, and each of their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estates of the Debtors) whether in the Chapter 11 Cases, in any Successor Cases, or upon dismissal of any such chapter 11 or chapter 7 case.

(c) **No Waiver**. The failure of the DIP Agent or the DIP Lender to seek relief or otherwise exercise its rights and remedies under the DIP Financing Agreements, the DIP Facility, this Final Order or otherwise, as applicable, shall not constitute a waiver of the DIP Agent's or the DIP Lender's rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair the DIP Agent or the DIP Lender under the Bankruptcy Code or under non-bankruptcy law, including without limitation, the rights of the DIP Agent and DIP

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Lender to (i) request conversion of the Chapter 11 Cases to cases under Chapter 7, dismissal of the Chapter 11 Cases, or the appointment of a trustee in the Chapter 11 Cases, (ii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a plan of reorganization, or (iii) exercise any of the rights, claims or privileges (whether legal, equitable or otherwise) the DIP Agent or DIP Lender may have pursuant to this Final Order, the DIP Financing Agreements, or applicable law. Nothing in this Final Order shall interfere with the rights of any party with respect to any non-Debtors.

(d) **No Third Party Rights**. Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

(e) **No Marshaling**. The DIP Lender shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.

(f) **Amendment.** The Debtors, the DIP Agent and the DIP Lender may amend or waive any provision of the DIP Financing Agreements, on notice to the Office of the U.S. Trustee, the Committee, the Prepetition Secured Creditors and McKesson. The Debtors shall give each Prepetition Secured Creditor and McKesson notice concurrent with giving such notice or request to the DIP Agent for any amendment or waiver of the DIP Financing Agreements and, without prejudice to the effectiveness of any such amendment or waiver, each Prepetition Secured Creditor shall have the right to file a motion objecting to such amendment. Nothing in this Final Order shall authorize the DIP Agent or DIP Lenders to increase the commitments in excess of the commitments set forth in this Final Order, increase the contract interest rate, defined in the DIP Credit Agreement as the Applicable LIBOR Margin, increase the Default Rate or extend the maturity date, defined in the DIP Credit Agreement as the "Scheduled Termination Date". Except as otherwise provided herein, no waiver, modification, or amendment of any of the provisions of the DIP Financing Agreements shall be effective unless set forth in writing, signed on behalf of all the Debtors, the DIP Agent and the DIP Lender, and, if material, approved by the Court. Nothing herein shall preclude the Debtors, the DIP Agent and the DIP Lender from implementing any amendment or waiver of any provision of the DIP Financing Agreements.

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(g) **Estate Subrogation**. Debtor Verity Holdings shall have an allowed unsecured superpriority administrative expense claim granted to it pursuant to section 364(c)(1), against each of the other Debtors that is a "Net Borrower" (as defined below) based on the consolidated cash management process and DIP Loan, which claim shall be subordinate to the DIP Obligations, including the DIP Superpriority Claim, and to the Adequate Protection Claims of the Prepetition Secured Creditors and McKesson, but shall have priority over all other administrative claims, in an amount equal to the sum of (a) the amount, if any, by which Debtor Verity Holdings' assets that are used to satisfy the DIP Loan, the Prepetition Replacement Liens or VMF Liens, exceeds the amount, if any, of any draws on the DIP Loan used by Verity Holdings plus interest, and (b) any postpetition net intercompany advances by Verity Holdings to any other Debtor. "Net Borrower" shall mean any Debtor for which the sum of all cash received from the concentration account or draws on the DIP Loan and its allocation of interest paid or payable under the DIP Loan based on amounts received by it and amounts received by other Debtors, exceeds any cash it has transferred to the concentration account during the Chapter 11 Cases.

29. **Survival of Final Order and Other Matters.** The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered in these Bankruptcy Cases, including without limitation, an order (i) confirming any Plan in the Chapter 11 Cases, (ii) converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code or any Successor Cases, (iii) to the extent authorized by applicable law, dismissing any of the Chapter 11 Cases, (iv) withdrawing of the reference of any of the Chapter 11 Cases from this Court, or (v) providing for abstention from handling or retaining of jurisdiction of any of the Chapter 11 Cases in this Court. The terms and provisions of this Final Order including the DIP Protections granted pursuant to this Final Order and the DIP Financing Agreements, shall continue in full force and effect notwithstanding the entry of such order, and such DIP Protections shall maintain their priority as provided by this Final Order until all the Obligations of the Debtors to the DIP Agent and the DIP Lender pursuant to the DIP Financing Agreements have been indefeasibly paid in full and in cash and discharged (such payment being without prejudice to any terms or provisions contained in the DIP Financing Agreements which survive such discharge by

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their terms). The terms and provisions of this Final Order including any protections granted to the Prepetition Secured Creditors and McKesson, shall continue in full force and effect notwithstanding the entry of such order, and such protections for the Prepetition Secured Creditors and McKesson shall maintain their priority as provided by this Final Order until all the obligations of the Debtors to the Prepetition Secured Creditors and McKesson pursuant to applicable documentation have been discharged. The DIP Obligations shall not be discharged by the entry of an order confirming a plan of reorganization, the Debtors having waived such discharge pursuant to section 1141(d)(4) of the Bankruptcy Code.

(a) **Inconsistency**. In the event of any inconsistency between the terms and conditions of the DIP Financing Agreements and of this Final Order, the provisions of this Final Order shall govern and control.

(b) **Enforceability**. This Final Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry of this Final Order. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, 9024, or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

(c) **Objections Overruled**. All objections to the DIP Motion to the extent not withdrawn or resolved, are hereby overruled.

(d) **No Waivers or Modification of Interim Order**. The Debtors irrevocably waive any right to seek any modification or extension of this Final Order without the prior written consent of the DIP Agent and the DIP Lender and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Agent or the DIP Lender.

(e) **No Effect on Non-Debtor Collateral**. Notwithstanding anything set forth herein, neither the liens nor claims granted in respect of the Carve Out shall be senior to any liens or claims of the DIP Agent or the DIP Lender with respect to any other non-Debtor or any of their assets.

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Date: October 4, 2018

Ernest M. Robles
United States Bankruptcy Judge

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Exhibit B
DIP Financing Appeal
Notice of Transfer of Appeal to District Court

FILED
CLERK, U.S. DISTRICT COURT
12/27/18
CENTRAL DISTRICT OF CALIFORNIA
BY: CS DEPUTY

U.S. Bankruptcy Appellate Panel of the Ninth Circuit

125 South Grand Avenue, Pasadena, California 91105
Appeals from Central California (626) 229-7220
Appeals from all other Districts (626) 229-7225

In Re: VERITY HEALTH SYSTEM OF CALIFORNIA, INC., ET AL.

BAP No.: CC-18-1322

Bk. Ct. No.: 2:18-bk-20151-ER

ADV. NO.:

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to Los Angeles.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Susan M Spraul, BAP Clerk

By: Cecil Lizandro Silva, Deputy Clerk
Date: December 21, 2018

Please acknowledge receipt of the case file listed above.
Dated: 12/27/18

Signed: _____
District Court Deputy

Assigned District Court No.

CV18-10675-RGK

cc: Bankruptcy Court
All Parties

Exhibit C
DIP Financing Appeal
Order Dismissing DIP Financing Appeal

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
Title	***In re Verity Health System of California, Inc., et al.***		

Present: The Honorable	R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE	
Sharon L. Williams	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiff:	Attorneys Present for Defendants:	
Not Present	Not Present	

Proceedings: **(IN CHAMBERS) Order Re: Appeal from the Bankruptcy Court's Final DIP Order**

I. INTRODUCTION

On December 27, 2018, appellant Official Committee of Unsecured Creditors of Verity Health System of California, Inc. (the "Committee") filed the instant Notice of Appeal ("Appeal") (DE 1). The Committee appeals the bankruptcy court's final order (I) authorizing postpetition financing, (II) authorizing use of cash collateral, (III) granting liens and providing superpriority administrative expense status, (IV) granting adequate protection, (V) modifying automatic stay, and (VI) granting related relief ("Final DIP Order").

On April 8, 2019, the Court granted motions to intervene from UMB Bank, N.A. ("UMB"), Wells Fargo Bank, National Association ("Wells Fargo"), and the U.S. Bank National Association ("U.S. Bank").

The Committee's opening brief was filed on March 14, 2019 (DE 22). Appellee U.S. Bank and movants UMB and Wells Fargo filed a reply brief on April 15, 2019 (DE 31). The same day, appellee Verity Health System of California, Inc. ("Verity") also filed a reply (DE 32). The Committee filed its reply brief on April 29, 2019 (DE 34). Finally, the Court took the matter under submission on May 31, 2019.

For the following reasons, the Court **DISMISSES** the Committee's Appeal **as moot**.

II. JURISDICTIONAL BASIS

The Court has jurisdiction over this Appeal pursuant to 28 U.S.C. § 158(a)(1).

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
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III. FACTUAL BACKGROUND[1]

On August 31, 2018, Verity and its subsidiaries (collectively, "Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The same day, the bankruptcy court entered an order granting the Debtors' motion for joint administration of their chapter 11 cases. The Debtors continue to manage and operate their businesses and properties as debtors in possession. The Committee has been appointed as the statutory representative of, and fiduciary to, the Debtors' unsecured creditors. Unsecured creditors include nurses, doctors, lab technicians, former employees, vendors, and tort claimants.

The Debtors operate several acute care hospitals: O'Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center, Seton Medical Center, and Seton Medical Center Coastside (collectively, the "Hospitals"). Verity, the Hospitals, and their affiliated entities also operate a nonprofit healthcare system in California with approximately 1,680 patient beds, six emergency rooms, one trauma center, and various medical specialties. In 2017, the Hospitals provided medical services to over 50,000 inpatients and approximately 480,000 outpatients. As of August 30, 2018, the Debtors' facilities had approximately 50% capacity and over 7,000 employees.

The Debtors are jointly obligated parties on approximately $461.4 million in outstanding secured debt consisting of: (1) $259.4 million in outstanding principal of tax exempt revenue bonds, Series 2005 A, G, and H issued by the California Statewide Communities Development Agency (the "2005 Bonds"); and (2) $202 million in outstanding principal amount of tax exempt revenue bonds, Series 2015 A, B, C, and D and Series 2017, issued by the California Public Financing Authority (the "Working Capital Notes"). For the 2005 Bonds, Wells Fargo is the Bond Trustee and UMB is the successor Master Trustee. U.S. Bank is the Note Trustee and Collateral Agent for the Working Capital Notes. Verity also holds $60 million in unsecured notes dated March 7, 2018 and March 29, 2018 (the "Unsecured Notes").

The Debtors' income is subject to prepetition perfected pledges. The Hospitals' gross revenue is pledged in favor of the 2005 Bonds, and the Hospitals' prepetition accounts receivable and government receivables are pledged in favor of the Working Capital Notes. On the day they filed for bankruptcy, the Debtors had less than $40 million cash on hand not subject to control accounts in favor of the 2005 Bonds, the Working Capital Notes, or in financing on their interest in real estate holdings.

On September 6, 2018, the bankruptcy court authorized the Debtors to borrow $30 million from Ally Financial, Inc. (the "DIP Lender") on an interim basis ("Interim DIP Order"). The Debtors then

[1] The Court discusses only the facts, parties, and issues relevant to the instant Appeal.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
Title	***In re Verity Health System of California, Inc., et al.***		

requested authorization to borrow up to an additional $155 million from the DIP Lender on a final basis ("Financing Motion"). After reviewing the papers filed in connection with the Financing Motion and conducting a hearing, the bankruptcy court authorized the Financing Motion and granted the final DIP order ("Final DIP Order") on October 4, 2018.

Before arriving at its decision, the bankruptcy court found that the Debtor established its need for the proposed financing from the DIP Lender. Specifically, as of the bankruptcy filing date, the Debtors' assets were valued at $857 million, while the secured claims against the Debtors totaled $565 million. During the first thirteen weeks of the case, however, the Debtors were projected to collect $239 million in patient revenue but spend $405 million to maintain Hospital operations. The estimated shortfall would be approximately $109 million. In other words, the Debtors desperately needed postpetition financing.

To that end, the bankruptcy court approved the financing package negotiated between the Debtors and the DIP Lender (the "DIP Agreement"). Specifically, the court allowed the Debtors to borrow on a superpriority basis under 11 U.S.C. § 364 and found that the secured creditors whose liens were primed and whose cash collateral would be used were "adequately protected" under the terms of the DIP Agreement.[2] The court then entered the Final DIP Order, which is the subject of the instant Appeal.

The Committee lodged several objections to the Final DIP Order before it was approved. In general, the Committee argued that the terms of the DIP Agreement were unduly favorable to the secured creditors at the unsecured creditors' expense. In response, the Debtors maintained that the terms were the best possible under the circumstances, and that the challenged provisions were necessary to induce the DIP Lender to provide the financing.

Relevant here, the Committee objected to two elements of the Final DIP Order. Specifically, the Final DIP Order includes an adequate protection package in which the secured creditors obtained waivers of rights available under 11 U.S.C. § 506(c) (the "§ 506(c) Waiver") and 11 U.S.C. § 552(b) (the "§ 552(b) Waiver") (collectively, the "Waivers"). Under § 506(c), a trustee may recover the costs and expenses of preserving or disposing of property held by secured creditors. 11 U.S.C. § 506(c). Section 552(b) allows the court to exclude postpetition proceeds of a debtor's assets from the secured creditors' collateral package based on the "equities of the case." 11 U.S.C. § 552(b). The Committee argued that the Waivers prejudice the unsecured creditors and are unduly beneficial to the secured creditors.

[2] The bankruptcy court noted that the secured creditors were also protected by an equity cushion, replacement liens, and superpriority claims.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
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The bankruptcy court overruled the Committee's objections, finding that the Waivers were necessary to induce the DIP Lender to extend financing and that it was reasonable for the Debtors to include the Waivers as part of the secured creditors' "adequate protection package." In the DIP Agreement, the DIP Lender maintained that the secured creditors' consent to the Final DIP Order was a condition precedent to the financing package. In turn, the secured creditors conditioned their consent on the inclusion of the Waivers. Against this backdrop, the bankruptcy court found that the Waivers were appropriate and necessary. The bankruptcy court also determined in the Final DIP Order that the DIP Lender acted in good faith and had negotiated with the Debtors at arms' length.

The Committee now appeals the inclusion of the Waivers in the Final DIP Order.

IV. QUESTIONS PRESENTED

1. Whether the Committee's Appeal is equitably moot or statutorily moot under 11 U.S.C. § 364(e).

2. Whether the bankruptcy court abused its discretion when it included the § 506(c) and § 552(b) Waivers in the Final DIP Order's adequate protection package.

V. STANDARD OF REVIEW

The district court reviews a bankruptcy court's conclusions of law de novo and reviews its factual findings for clear error. *Nichols v. Birdsell*, 491 F.3d 987, 989 (9th Cir. 2007).

A bankruptcy court's decision regarding adequate protection "is reviewed for abuse of discretion." *In re Big3D, Inc.*, 438 B.R. 214, 219 (B.A.P. 9th Cir. 2010). "To determine whether the bankruptcy court has abused its discretion, we conduct a two-step inquiry: (1) we review de novo whether the bankruptcy court 'identified the correct legal rule to apply to the relief requested' and (2) if it did, whether the bankruptcy court's application of the legal standard was illogical, implausible or 'without support in inferences that may be drawn from the facts in the record.'" *In re Ellsworth*, 455 B.R. 904, 914 (B.A.P. 9th Cir. 2011) (citing *United States v. Hinkson*, 585 F.3d 1247, 1261–62 & n. 21 (9th Cir. 2009) (en banc)); *see also USAA Fed. Sav. Bank v. Thacker (In re Taylor)*, 599 F.3d 880, 887–88 (9th Cir. 2010).

VI. DISCUSSION

The Court first addresses whether the Committee's Appeal is moot. If the Appeal is not moot, the Court will turn to the Committee's substantive challenge to the Final DIP Order.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
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A. Mootness

Verity, one of the appellees, argues that the Committee's Appeal is both equitably and statutorily moot. A bankruptcy appeal may be equitably moot "when there has been a comprehensive change of circumstances" that renders it "inequitable for this court to consider the merits of the appeal." *In re Mortgages Ltd.*, 771 F.3d 1211, 1214 (9th Cir. 2014) (internal citations omitted). "An appeal is equitably moot if the case presents 'transactions that are so complex or difficult to unwind' that 'debtors, creditors, and third parties are entitled to rely on [the] final bankruptcy court order.'" *Id.* at 1215 (citing *In re Thorpe Insulation Co.*, 677 F.3d 869, 880 (9th Cir. 2012)). Similarly, "an appeal is moot when a change in circumstances prevents effective relief." *In re Adams Apple, Inc.*, 829 F.2d 1484, 1489 (9th Cir. 1987). This rule reflects "the specific notion in bankruptcy law that there is a need for finality in orders." *Id.*

An appeal may also be moot pursuant to 11 U.S.C. § 364(e) ("§ 364(e)"). Section 364(e) provides:

> The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e). As such, "[a]n appellate court may not reverse the authorization to obtain credit or incur debts under section 364 if the authorization was not stayed pending appeal unless the lender did not act in good faith." *In re Adams Apple*, 829 F.2d at 1487–88.

Section 364(e) may apply here. The first issue is whether the Committee is seeking the "reversal or modification" of an authorization under § 364. As outlined above, § 364 allows the debtor in possession to obtain credit and incur debt on behalf of the estate in chapter 11 cases if certain conditions are satisfied, including a finding that the secured creditors have "adequate protection." 11 U.S.C. § 364. Here, the bankruptcy court's Final DIP Order explicitly authorized financing under § 364.

The Committee contends that this Appeal falls outside § 364(e) because it relates to adequate protection, not to the extension of credit or incurring of debt. To be sure, the Committee is not asking for a blanket reversal of the Court's Final DIP Order. Instead, the Committee is requesting a reversal of the Final DIP Order "to the extent that" the Order includes the Waivers or for a modification of the adequate protection package. That said, either form of relief constitutes a "modification" of the bankruptcy court's

Final DIP Order, which is an authorization of postpetition financing under § 364. And if the court's order "is within the purview of section 364," then the protections of § 364(e) apply. *See In re Adams Apple*, 829 F.2d at 1488 (finding that a cross-collateralization lien falls within the purview of § 364 because it relates to a financing device used to obtain credit after filing bankruptcy, and thus § 364(e) applies).

The Ninth Circuit has extended § 364(e) to analogous situations. "Section 364 was designed to provide a debtor a means to obtain credit after filing bankruptcy." *In re Adams Apple*, 829 F.2d at 1488. To that end, § 364 "authorizes a bankruptcy court to permit the use of a variety of financing devices." *Id.* Section 364(e), for its part, helps good faith lenders overcome their "reluctance to extend financing in a bankruptcy context by permitting reliance on a bankruptcy court's authorization." *In re Cooper Commons, LLC*, 430 F.3d 1215, 1219 (9th Cir. 2005). "[I]t follows that any provisions of the financing agreement that [the lender] might have bargained for or that helped motivate its extension of credit are protected by § 364(e)." *Id.* at 1219–20. In other words, "any agreements or conditions necessary to obtain the credit" cannot be undone pursuant to § 364(e); an appeal attempting to do so is moot. *Id.* (citing *In re Adams Apple*, 829 F.2d at 1488).

1. The Bankruptcy Court's Approval of the Waivers

After reviewing the evidence and conducting a hearing, the bankruptcy court found that both the § 506(c) and the § 552(b) Waivers in the adequate protection package were "necessary to induce the DIP Lender to extend the financing." The DIP Lender expressly required that the secured creditors consent to the Final DIP Order. The secured creditors, in turn, only granted their consent after the Waivers were included in the adequate protection package. Because the Debtors faced a "dire financial position," the bankruptcy court noted that they were "very fortunate to have negotiated a financing package containing such favorable terms." The bankruptcy court then overruled the Committee's objections to the Waivers, finding that their inclusion was reasonable. The Committee raises the same objections again here.

2. This Court's Review of the Bankruptcy Court's Findings

Here, the Court must first examine the bankruptcy court's finding that the Waivers were necessary. On appeal, the court reviews a bankruptcy court's factual findings for clear error. *See Birdsell*, 491 F.3d at 989. "A finding of fact is clearly erroneous, even though there is evidence to support it, if we have the definite and firm conviction that a mistake has been committed." *Banks v. Gill Distribution Ctrs., Inc. (In re Banks)*, 263 F.3d 862, 869 (9th Cir. 2001). Based on the record, the Court finds that the bankruptcy court did not err in finding that the Waivers were necessary to induce the DIP Lender. The DIP Agreement states that the consent of the prepetition secured creditors to the Final DIP

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
Title	***In re Verity Health System of California, Inc., et al.***		

Order is a condition precedent to the DIP Lender's obligation to make revolving loans.[3] (*See* DIP Agreement ¶ 3.3, Appellant's Appx. Tab 3, ECF No. 23-3.) The secured creditors then conditioned their consent to the Final DIP Order on the inclusion of the Waivers in the adequate protection package. Notably, the Committee presents no evidence to the contrary and raises no genuine dispute that the bankruptcy court's finding was erroneous. The Court therefore adopts the relevant findings of the bankruptcy court: namely, that the Waivers were necessary to induce the DIP Lender to enter the financing agreement, because the Waivers were needed to induce the secured creditors' consent.

With these facts in mind, the Court now turns to whether § 364(e) renders the instant Appeal moot.

3. Whether § 364(e) Moots the Committee's Appeal

The Committee's Appeal seeks to remove a condition that was necessary to obtain credit. As a result, § 364(e) may render it moot if its remaining elements are met.

Section 364(e) applies if the order has not been stayed and the lender acted in good faith. Here, the Committee did not seek or obtain a stay of the Final DIP Order. This fact is not in dispute. Moreover, the bankruptcy court found that the DIP Lender acted in good faith and that the DIP Agreement was negotiated in good faith and at arms' length. These facts are not substantively challenged by the Committee. As discussed above, the Court reviews the bankruptcy court's factual findings for clear error. Based on the record, there is no indication that a mistake has been committed or that the findings are erroneous. *See Banks*, 263 F.3d at 869. The Court therefore adopts these findings here.

Accordingly, the Court finds that the elements of § 364(e) have been satisfied. The Appeal is moot under § 364(e).

4. The DIP Stipulation

One last possible defense remains. After filling the instant Appeal, the Committee signed an agreement with the DIP Lender (the "DIP Stipulation") that appears to state that if the Committee wins its Appeal, the Final DIP Order will remain in full force as to the DIP Lender. (*See* Stipulation 3,

[3] The DIP Agreement also states that an amendment, modification, or reversal of the terms of the Final DIP Order constitutes an "event of default." (*Id.* ¶ 9.1(q)(xii).)

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10675-RGK	Date	August 02, 2019
Title	***In re Verity Health System of California, Inc., et al.***		

Appellee's Appx. Tab 2, ECF No. 33-1.) At first glance, the DIP Stipulation appears to preclude mootness under § 364(e).

But while the DIP Stipulation may attempt to override § 364(e), it does not necessarily do so here. First, there is no indication that the bankruptcy court granted this Stipulation. Second, neither the Committee nor the DIP Lender explains how the DIP Stipulation relates to the DIP Agreement, which was negotiated and agreed to by different parties.

The Court is not persuaded that it can cause the modification of a necessary term in the DIP Agreement without implicating § 364(e). *See In re Cooper Commons*, 430 F.3d at 1219–20. If the Court deletes the Waivers, the secured creditors may no longer consent to the priming of their lien or to the use of their cash collateral. And by the plain language of the DIP Agreement, the secured creditors' consent to these financing terms is a required condition. The secured creditors could then revoke their consent. Any modification of the DIP Agreement's terms may result in default, per the Agreement itself. So even if the Committee and the DIP Lender agreed to the DIP Stipulation, it does not automatically override the DIP Agreement, which was entered between the DIP Lender and the Debtors and affirmed by the bankruptcy court.

As a result, the Court will not rely on the DIP Stipulation as assurance that removing the Waivers will not materially alter the DIP Agreement. In fact, the *very terms* of the DIP Agreement suggest that the loss of the secured creditors' consent may result in default. *Cf. In re Defender Drug Stores, Inc.*, 145 B.R. 312, 315 (B.A.P. 9th Cir. 1992) (finding that a stipulated amendment that carved out an exception to § 364(e) was valid when the court expressly adopted the parties' stipulation into its financing order).

B. The Final DIP Order

Because the Court finds that the Appeal is moot, it need not address its substantive merits.

VII. CONCLUSION

For the foregoing reasons, the Court **DISMISSES** the Committee's Appeal **as moot**.

IT IS SO ORDERED.

_____ : _____

Initials of Preparer _____

Exhibit D
Santa Clara Sale Appeal
Notice of Appeal and Statement of Election

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
XAVIER BECERRA Attorney General of California TANIA M. IBANEZ Senior Assistant Attorney General ALICIA BERRY (SBN 228367) 300 South Spring Street, Suite 1702 Los Angeles, CA 90013 Tel. 213.269.6550 / fax. 213.897.7605 alicia.berry@doj.ca.gov ☐ *Individual appearing without attorney* ☒ *Attorney for:* Xavier Becerra, CA Attorney General	FILED CLERK, U.S. DISTRICT COURT JAN - 7 2019 CENTRAL DISTRICT OF CALIFORNIA BY: RS DEPUTY 2:19-CV-00133-DMG

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re: VERITY HEALTH SYSTEM OF CALIFORNIA, INC. et al., Debtor(s).	CASE NO.:2:18-bk-20151-ER ADVERSARY NO.: (*if applicable*) CHAPTER: 11
Plaintiff(s) (*if applicable*). vs. Defendant(s) (*if applicable*).	**NOTICE OF APPEAL AND STATEMENT OF ELECTION**

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Xavier Becerra, California Attorney General

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff
☐ Defendant
☐ Other (*describe*):

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor
☐ Creditor
☐ Trustee
☒ Other (*describe*): Xavier Becerra, California Attorney General

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:
   Order re Sale of Certain of the Debtors' Assets to Santa Clara County Free and Clear filed December 27, 2018 [Docket No. 1153]; and Memo of Decision Overruling Objections of the California Attorney General to the Debtors' Sale Motion filed December 26, 2018 [Docket No. 1146].
2. The date the judgment, order, or decree was entered: 12/27/2018

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: Debtors, Verity Health System of California, et al.

   Attorney:

   SAMUEL R. MAIZEL (Bar No. 189301), samuel.maizel@dentons.com
   JOHN A. MOE, II (Bar No. 066893), john.moe@dentons.com
   TANIA M. MOYRON (Bar No. 235736), tania.moyron@dentons.com
   DENTONS US LLP
   601 South Figueroa Street, Suite 2500, Los Angeles, California 90017-5704
   Tel: (213) 623-9300 / Fax: (213) 623-9924

2. Party: County of Santa Clara

   Attorney:

   GREGORY JONES (Bar No. 229858), gjones@mwe.com
   McDermott Will & Emery
   2049 Century Park East, Suite 3800, Los Angeles, CA 90067-3218, Tel:(310) 284-6140
   JAMES KAPP, jkapp@mwe.com, McDermott Will & Emery
   444 West Lake St Ste 4000, Chicago, IL 60606, Tel: (312) 372-2000

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☒ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

/s/ Alicia Berry Date: 01/07/2019
Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

300 S. Spring Street, Suite 1702, Los Angeles, CA 90013

A true and correct copy of the foregoing document entitled: **NOTICE OF APPEAL AND STATEMENT OF ELECTION** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 01/07/2019, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:
On (*date*) 01/07/2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

1/7/2019	Jane Miyamura	/s/ Jane Miyamura
Date	*Printed Name*	*Signature*

Verity Health Systems of California, Inc.

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FILED & ENTERED

DEC 26 2018

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re: Verity Health System of California, Inc., *et al.*,

Debtors and Debtors in Possession.

☒Affects All Debtors

☐ Affects Verity Health System of California, Inc.
☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☐ Affects St. Francis Medical Center
☐ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Medical Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors in Possession.,

Lead Case No.: 2:18-bk-20151-ER
Chapter: 11

MEMORANDUM OF DECISION OVERRULING OBJECTIONS OF THE CALIFORNIA ATTORNEY GENERAL TO THE DEBTORS' SALE MOTION

Jointly Administered With:
Case No. 2:18-bk-20162-ER;
Case No. 2:18-bk-20163-ER;
Case No. 2:18-bk-20164-ER;
Case No. 2:18-bk-20165-ER;
Case No. 2:18-bk-20167-ER;
Case No. 2:18-bk-20168-ER;
Case No. 2:18-bk-20169-ER;
Case No. 2:18-bk-20171-ER;
Case No. 2:18-bk-20172-ER;
Case No. 2:18-bk-20173-ER;
Case No. 2:18-bk-20175-ER;
Case No. 2:18-bk-20176-ER;
Case No. 2:18-bk-20178-ER;
Case No. 2:18-bk-20179-ER;
Case No. 2:18-bk-20180-ER;
Case No. 2:18-bk-20181-ER;

Chapter 11 Cases.

Date: December 19, 2018

Time: 10:00 a.m.

Location: Ctrm. 1568
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

To adjudicate objections asserted by the California Attorney General (the "Attorney General") to the Debtors' motion for authorization to sell Saint Louise Regional Hospital ("St. Louise") and O'Connor Hospital ("O'Connor," and together with St. Louise, the "Hospitals") to the County of Santa Clara ("Santa Clara"), the Court ordered the Debtors, the Attorney General, Santa Clara, and the Official Committee of Unsecured Creditors (the "Committee") to respond to the Court's *Preliminary Findings and Conclusions* (the "Preliminary Findings").[1] In the Preliminary Findings, the Court stated that it intended to authorize the Debtors to sell the Hospitals to Santa Clara, free and clear of certain conditions imposed by the Attorney General in connection with a 2015 restructuring transaction, pursuant to §363(f)(1).[2] Having reviewed the briefing submitted in response to the Court's order,[3] the Court maintains its Preliminary Findings, and for the reasons set forth below will authorize the Debtors to sell the Hospitals free and clear of the conditions imposed by the Attorney General in connection with the 2015 restructuring transaction.

I. Background

On August 31, 2018 (the "Petition Date"), Verity Health Systems of California ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. On August 31, 2018, the Court entered an order granting the Debtors' motion for joint administration of the Debtors' Chapter 11 cases.[4]

On October 31, 2018, the Court entered an order establishing auction procedures for the sale of the Hospitals (the "Bidding Procedures Order," and the motion for entry of the Bidding

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[1] *See* Order Providing Notice of the Court's Intent to Authorize the Debtors to Sell Hospitals Free and Clear of the 2015 Conditions Asserted by the California Attorney General [Doc. No. 1125] (the "Briefing Order").

[2] Unless otherwise indicated, all "Civil Rule" references are to the Federal Rules of Civil Procedure, Rules 1–86; all "Bankruptcy Rule" references are to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037; all "Evidence Rule" references are to the Federal Rules of Evidence, Rules 101–1103; all "LBR" references are to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California, Rules 1001-1–9075-1; and all statutory references are to the Bankruptcy Code, 11 U.S.C. §§101–1532.

[3] The following papers were submitted in response to the Briefing Order:

1) County of Santa Clara's Response to Order Providing Notice of the Court's Intent to Authorize the Debtors to Sell Hospitals Free and Clear of the 2015 Conditions Asserted by the California Attorney General [Doc. No. 1136];
2) Official Committee of Unsecured Creditors' Response to the Court's Order Providing Notice of the Court's Intent to Authorize the Debtors to Sell Hospitals Free and Clear of the 2015 Conditions Asserted by the California Attorney General [Doc. No. 1137];
3) Debtors' Response to Order Providing Notice of the Court's Intent to Authorize the Debtors to Sell Hospitals Free and Clear of the 2015 Conditions Asserted by the California Attorney General [Doc. No. 1139];
4) Attorney General Response to the Court's Preliminary Findings and Conclusions Re: Court's Order Providing Notice of the Court's Intent to Authorize the Debtors to Sell Hospitals Free and Clear of the 2015 Conditions Asserted by the California Attorney General [Doc. No. 1140];
   a) Notice of Errata Re: Attorney General's Response Filed on December 24, 2018 [Doc. No. 1144];
5) Declaration of Douglas M. Press in Response to the Filing by the California Attorney General [Docket No. 1140] and in Support of Entry of the Order (1) Approving Sale of Certain Assets to Santa Clara County Free and Clear of All Encumbrances; (2) Approving of Debtors' Assumption and Assignment of Certain Unexpired Leases and Executory Contracts and Determining Cure Amounts and Approving of Debtors' Rejection of Those Unexpired Leases and Executory Contracts Which Are Not Assumed and Assigned; (3) Waiving the 14-day Stay Periods Set Forth in Bankruptcy Rules 6004(h) and 6006(d); and (4) Granting Related Relief [Doc. No. 1141] (the "Press Decl.").

[4] Doc. No. 17.

Procedures Order, the "Bidding Procedures Motion").[5] Pursuant to an Asset Purchase Agreement (the "APA")[6] dated October 1, 2018, Santa Clara was designated as the stalking horse bidder (the "Stalking Horse Bidder"). The Bidding Procedures Order set a hearing on December 19, 2018 to consider the Debtors' motion for entry of an order (the "Sale Order") approving the sale of the Hospitals (the "Sale Motion," and the hearing on the Sale Motion, the "Sale Hearing"). The Debtors expect that the sale will close no earlier than February 28, 2019.

The Hospitals were vigorously marketed by the Debtors' investment banker, Cain Brothers, a division of KeyBank Capital Markets, Inc. ("Cain"). Twenty-five parties executed non-disclosure agreements and were granted access to a data room containing information about the Hospitals.[7] Cain sent a direct e-mail communication to over 170 interested potential purchasers which contained key information about the Hospitals.[8] Cain actively followed up with two serious potential purchasers, assisting those parties with due diligence and making itself available to answer questions.[9] Notwithstanding these thorough marketing efforts, no party emerged willing to place a bid for the Hospitals.[10]

In 2015, the Debtors' predecessor, Daughters of Charity Ministry Services Corporation ("Daughters"), sought authorization from the Attorney General, pursuant to Cal. Corp. Code §5914, to implement a *System Restructuring and Support Agreement* (the "Restructuring Agreement"). The Attorney General approved the Restructuring Agreement, subject to various conditions (each, a "Condition," and collectively, the "Conditions").[11] O'Connor was subject to 21 Conditions; St. Louise was subject to 22 Conditions.

Among other things, the Conditions require the Hospitals to maintain specified levels of emergency services, intensive care services, cardiac services, and various other services. The Conditions purport to be binding upon "any and all current and future owners" of the Hospitals.[12]

On October 10, 2018, the Attorney General filed an objection to the Bidding Procedures Motion.[13] The Attorney General objected to the Debtors' proposal to sell the Hospitals free and clear of the Conditions, contending that the Conditions remained binding upon any purchaser of the Hospitals. The Court did not address the Attorney General's objection when adjudicating the

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[5] *See* Doc. No. 724 (Bidding Procedures Order) and Doc. No. 365 (Bidding Procedures Motion).

[6] The APA [Doc. No. 365, Ex. A] defines the assets being sold as follows: "all assets, businesses, real property, personal property, equipment, supplies, software, contracts, leases, licenses/permits, books, records, offices, facilities, and all other tangible and intangible property (a) whatsoever and wherever located that is owned, leased, or used primarily in connection with the Businesses by a Hospital Seller, (b) located in Santa Clara County, California that is owned, leased, or used primarily in connection with the Businesses by Verity Holdings, and (c) whatsoever and wherever located that is owned, leased, or used by Verity primarily in connection with the Businesses, in each case, except for the Excluded Assets." APA at ¶1.8.

[7] Decl. of James M. Moloney [Doc. No. 1041] (the "Moloney Decl.") at ¶6.

[8] *Id.* at ¶7.

[9] *Id.* at ¶¶7–8.

[10] *Id.* at ¶9.

[11] The Conditions are memorialized in documents captioned *Conditions to Change in Control and Governance of O'Connor Hospital and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry Services Corporation, Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital Management, LLC, and Integrity Healthcare, LLC* [Doc. No. 256, Ex. A, at 176–187] (the "O'Connor Conditions") and *Conditions to Change in Control and Governance of Saint Louise Regional Hospital and Approval of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry Services Corporation, Daughters of Charity Health System, Certain Funds Managed by BlueMountain Capital Management, LLC, and Integrity Healthcare, LLC* [Doc. No. 256, Ex. A, at 261–273] (the "St. Louise Conditions").

[12] O'Connor Conditions at 176–77 and St. Louise Conditions at 261–62.

[13] Doc. No. 463.

Bidding Procedures Motion, finding the objection to be premature. The Bidding Procedures Order provided that the Attorney General's objection was "preserved for the Sale Hearing and may be raised at that time."[14]

On November 2, 2018, Santa Clara asked the Attorney General to provide clarification regarding his position as to the applicability of certain of the Conditions.[15] Santa Clara asserted that its status as a government entity made it impossible to comply with certain Conditions without violating its obligations under California law and the California Constitution. On November 9, 2018, the Attorney General responded, advising that five of the Conditions would not be enforced against Santa Clara.[16] Specifically, the Attorney General waived enforcement of Conditions requiring the Hospitals to furnish specified amounts of charity care and community benefits, Conditions pertaining to pension obligations, and Conditions pertaining to the composition of the Board of Trustees of each Hospital.

On December 14, 2018, the Attorney General filed a response to the Debtors' memorandum in support of the Sale Motion (the "Response").[17] The Response provided:

> The California Attorney General does not object to the sale to the County of Santa Clara, in light of the conditions as clarified in the Attorney General's November 9, 2018 letter to the County of Santa Clara and as may be subsequently further clarified or modified by the Attorney General. The Attorney General and the County are presently engaged in further discussions about the Conditions not addressed by the Attorney General's November 9, 2018 letter, and as such, the Attorney General will continue to consider any further requests for clarification or modification presented by the County.

Response at 2.

The APA provides that Santa Clara is not required to accept a Sale Order that does not provide for the sale of the Hospitals free and clear of all liens, claims, and interests (including the Conditions).[18] The Attorney General's Response did not state that the Attorney General objected to sale of the Hospitals free and clear of the Conditions.

At the Sale Hearing, the Attorney General stated that the Response was "inartfully drafted," and that the Attorney General did in fact object to sale of the Hospitals free and clear of the Conditions. The Debtors and Santa Clara asked the Court to approve the sale free and clear of the Conditions, asserting that the Attorney General had waived its objections and/or was estopped from asserting such objections. Santa Clara's counsel explained that in order for the County to be able to proceed with the closing—anticipated to occur at the end of February 2019—it was necessary for any uncertainty regarding the applicability of the Conditions to be immediately resolved. Santa Clara stated that if an order providing for a sale free and clear of the Conditions was not entered by the January 2, 2019 deadline set forth in the APA, it would be Santa Clara's position that a breach of the APA had occurred.

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[14] Bidding Procedures Order [Doc. No. 724] at ¶3.
[15] Doc. No. 1066, Ex. 1.
[16] Doc. No. 1066, Ex. 2.
[17] Doc. No. 1066.
[18] APA at ¶6.2.6.

II. Findings and Conclusions

A. The Attorney General Has Waived His Ability to Contest a Sale Free and Clear of the Conditions

"Waiver is the voluntary relinquishment of a known right or conduct such as to warrant an inference to that effect. It implies knowledge of all material facts and of one's rights, together with a willingness to refrain from enforcing those rights." *Hauk v. JP Morgan Chase Bank USA*, 552 F.3d 1114, 1119 (9th Cir. 2009). Waiver also occurs when a "party's acts are so inconsistent with an intent to enforce the right as to induce a reasonable belief that such right has been relinquished." *Salyers v. Metro. Life Ins. Co.*, 871 F.3d 934, 938 (9th Cir. 2017).

The Response filed by the Attorney General on December 14, 2018 waived the Attorney General's right to object to a sale free and clear of the Conditions. The Response provided: "The California Attorney General *does not object* to the sale to the County of Santa Clara …." (emphasis added).[19] It contained no reservation of the Attorney General's right to object in the event that the contemplated "further requests for clarification or modification presented by the County"[20] did not yield results acceptable to the Attorney General. The Attorney General knew that the Debtors were seeking approval of a sale free and clear of the Conditions, because the APA contained unequivocal language to that effect. By filing the Response, the Attorney General voluntary relinquished his right to object to a sale free and clear.

In addition, the filing of the Response was so inconsistent with an intent to continue to enforce the Conditions against Santa Clara as to induce Santa Clara to reasonably believe that the Attorney General had abandoned his position as to the enforceability of the Conditions. *See Salyers*, 871 F.3d at 938.

In support of his contention that the Response did not waive his objections, the Attorney General points to conversations between the Attorney General's counsel and Santa Clara's counsel that took place contemporaneously with the filing of the Response. Angela Sierra, Chief Assistant Attorney General of the Public Rights Division at the California Department of Justice, testifies that she had a short conversation with Douglas M. Press, Santa Clara's Assistant County Counsel, on December 14, 2018.[21] According to Ms. Sierra:

> Shortly before the Attorney General Office's filing of the AG Response, my Office had proposed incorporating our previously lodged objections into [the] AG Response by way of a footnote. After further consideration of an issue raised by the County, I determined that such incorporation was not necessary, given that we had not withdrawn our objections. Approximately ten minutes before the noon filing deadline on December 14, 2018, I had a short conversation with Assistant County Counsel Doug Press, during which I explained that the language that my Office was poised to file meant that we did not object to the sale as long as the conditions as currently or subsequently clarified remained in place. Doug Press stated that he disagreed with that interpretation.
>
> I participated in several discussions with Assistant County Counsel Doug Press regarding the AG Conditions following the filing of the AG Response on December 14, 2018. These discussions continued through December 18, 2018. At no time during those

[19] Response at 2.
[20] *Id.*
[21] Declaration of Angela Sierra [Doc. No. 1144] (the "Sierra Decl.") at ¶6.

> discussions did our Office communicate that we had waived the applicability of the AG Conditions.[22]

Mr. Press disputes Ms. Sierra's characterization of the December 14, 2018 conversation. Mr. Press' account of the conversation is as follows:

> On … December 14, 2018, the California Attorney General's Office proposed language to be inserted in a response that day that would have asserted that its approval of the sale was conditional, but we agreed to remove that conditional language. Instead, we agreed to the unconditional language that appears in the Attorney General's response … that … "[t]he California Attorney General does not object to the sale to the County of Santa Clara, ***in light of*** the conditions as clarified in the Attorney General's November 9, 2018 letter to the County of Santa Clara and as may be subsequently further clarified or modified by the Attorney General." [Emphasis Added.] The unconditional "in light of" language was meant, as the County understood it, to reflect that the California Attorney General would no longer object to the sale, although we also agreed to continue to discuss, post-sale, how to address the other conditions under a variety of approaches. But the message to the Court and the community was meant to be clear, that the California Attorney General, in its Response, … was expressing that it was not opposed to the sale even though ongoing discussions with the County about the other conditions were contemplated outside the Court process.[23]

The Court declines to consider the testimony of Ms. Sierra and Mr. Press in determining whether the filing of the Response effected a waiver of the Attorney General's objections. When litigating with a sophisticated party such as the Attorney General, the Debtors, Santa Clara, and other interested parties are entitled to presume that representations made by the Attorney General in papers filed with the Court accurately reflect his position. Allowing the Attorney General, or any other party, to qualify statements made in papers through the subsequent introduction of parol evidence would unduly hamper the Court's ability to adjudicate matters arising in this case. More than 63 separate papers have been filed in connection with the Bidding Procedures Motion and Sale Motion. The papers raise multiple discrete and complicated issues, including whether the sale could be free and clear of obligations imposed in connection with various collective bargaining agreements; whether the Debtors sufficiently marketed the Hospitals; whether the bidding procedures proposed by the Debtors would yield the maximum price for the estate; whether the Debtors had articulated sufficient business justification for the sale; whether the sales price is fair and reasonable; whether the APA was negotiated in good faith and at arms-length; whether the Debtors' Medicare and Medi-Cal Provider Agreements are properly characterized as an executory contract or a statutory entitlement; and whether the Debtors are entitled to assume and assign various unexpired leases and executory contracts.[24] Even if only a fraction of the parties who have filed papers were allowed to introduce supplemental evidence establishing what their papers really meant, the adjudicative process would grind to a halt.

Pursuant to FRE 403, the Court may exclude evidence if consideration thereof would result in undue delay. Exclusion of the declarations of Ms. Sierra and Mr. Press is warranted under

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[22] Sierra Decl. at ¶¶6–7.
[23] Press Decl. [Doc. No. 1141] at ¶5.
[24] Adjudication of certain of these issues will take place on January 30, 2019.

FRE 403, particularly where, as here, the consideration of such evidence would require the Court to consider similar evidence submitted by other parties dissatisfied by the Court's rulings. In addition, the Court has the inherent power to "manage [its] own affairs so as to achieve the orderly and expeditious disposition" of matters coming before it. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43, 111 S. Ct. 2123, 2132, 115 L. Ed. 2d 27 (1991). Finally, in the same way that the parol evidence rule bars consideration of extrinsic evidence in connection with the interpretation of an integrated contract, *see Casa del Caffe Vergnano S.P.A. v. ItalFlavors, LLC*, 816 F.3d 1208, 1213 (9th Cir. 2016), the Court finds it appropriate to similarly decline to consider extrinsic evidence when interpreting papers submitted by a sophisticated litigant such as the Attorney General.

B. The Attorney General is Equitably Estopped from Contesting a Sale Free and Clear of the Conditions

A party may be equitably estopped from asserting a position if the following conditions apply:

1) [T]he party to be estopped must know the facts;
2) he must intend that his conduct shall be acted on or must so act that the party asserting the estoppel has a right to believe it is so intended;
3) the latter must be ignorant of the true facts; and
4) he must rely on the former's conduct to his injury.

Gabriel v. Alaska Elec. Pension Fund, 773 F.3d 945, 955 (9th Cir. 2014).

Under the circumstances, the Attorney General is equitably estopped from contesting the Debtors' ability to sell the Hospitals free and clear of the Conditions. The Attorney General knew that the Debtors and Santa Clara would rely upon the Response's representation that he had no objection to the sale. The Debtors and Santa Clara had no way of knowing that when the Attorney General stated that he did "not object to the sale to the County of Santa Clara,"[25] what he really meant was that he did not object except to the extent that he did object. The Debtors and Santa Clara relied upon the Attorney General's representation to their detriment. Had they been aware of the Attorney General's true position, the Debtors and Santa Clara would have more vigorously contested the Attorney General's arguments regarding the binding effect of the Conditions.

Relying upon *Jordan v. California Dep't of Motor Vehicles*, 100 Cal. App. 4th 431, 453, 123 Cal. Rptr. 2d 122 (2002), *as modified on denial of reh'g* (Aug. 20, 2002), the Attorney General argues that equitable estoppel may not be invoked where, as here, "it would operate to defeat the effective operation of a policy adopted to protect the public." *Id.* at 453. This argument fails because, as discussed in Section II.C., below, the Attorney General has not identified a statutory basis for its assertion that the Conditions remain enforceable against Santa Clara. Consequently, the Attorney General has failed to show that continued enforcement of the Conditions is supported by California law.

[25] Response at 2.

C. Even if the Doctrines of Waiver and Equitable Estoppel Did Not Apply, a Sale of the Hospitals Free and Clear of the Conditions is Authorized under §363(f)(1)

Section 363(d)(1) authorizes non-profit entities, such as the Debtors, to sell estate assets only if the sale is "in accordance with nonbankruptcy law applicable to the transfer of property by" a non-profit entity. Section 363(b) permits the Debtors to sell estate property out of the ordinary course of business, subject to court approval. The Debtors must articulate a business justification for the sale. *In re Walter*, 83 B.R. 14, 19–20 (9th Cir. BAP 1988). Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *Id.* at 19–20. Section 363(f)(1) provides that a sale of estate property may be "free and clear of any interest in such property of an entity other than the estate, only if applicable nonbankruptcy law permits sale of such property free and clear of such interest …."

1. The Conditions Are an Interest in Property Within the Meaning of §363

As this Court has previously explained:

> The Bankruptcy Code does not define the phrase "interest in ... property" for purposes of § 363(f). The Third Circuit has held that the phrase "interest in ... property" is "intended to refer to obligations that are connected to, or arise from, the property being sold." *Folger Adam Sec., Inc. v. DeMatteis/MacGregor JV*, 209 F.3d 252, 259 (3d Cir. 2000). That conclusion is echoed by *Collier on Bankruptcy*, which observes a trend in caselaw "in favor of a broader definition [of the phrase] that encompasses other obligations that may flow from ownership of the property." 3 Alan N. Resnick & Henry J. Sommer, *Collier on Bankruptcy* ¶ 363.06[1] (16th ed. 2017).
>
> Courts have held that interests in property include monetary obligations arising from the ownership of property, even when those obligations are imposed by statute. For example, in *Mass. Dep't of Unemployment Assistance v. OPK Biotech, LLC (In re PBBPC, Inc.)*, 484 B.R. 860 (1st Cir. BAP 2013), the court held that taxes assessed by Massachusetts under its unemployment insurance statutes constituted an "interest in ... property." The taxes were computed based on the Debtor's "experience rating," which was determined by the number of employees it had terminated in the past. *Id.* at 862. Because the Debtor had terminated most of its employees prior to selling its assets, its experiencing rating, and corresponding unemployment insurance tax liabilities, were very high. *Id.* The *PBBPC* court held that the experience rating was an interest in property that could be cut off under § 363(f). *Id.* at 869–70. Similarly, in *United Mine Workers of Am. Combined Benefit Fund v. Leckie Smokeless Coal Co. (In re Leckie Smokeless Coal Co.)*, 99 F.3d 573, 581, the court held that monetary obligations imposed by the Coal Industry Retiree Health Benefit Act of 1992 constituted an "interest in ... property" within the meaning of § 363(f).

In re Gardens Reg'l Hosp. & Med. Ctr., Inc., 567 B.R. 820, 825–26 (Bankr. C.D. Cal. 2017), *appeal dismissed,* No. 2:16-BK-17463-ER, 2018 WL 1229989 (C.D. Cal. Jan. 19, 2018).

The Conditions are an "interest in property" within the meaning of §363(f). The Conditions provide that any owner of the Hospitals must furnish specified levels of emergency services, intensive care services, cardiac services, and various other services. The required service levels were derived based upon the historical experience of the prior operator. As such, the Conditions are monetary obligations arising from the ownership of property.

2. The Debtors May Sell the Hospitals Free and Clear of the Conditions under Applicable Nonbankruptcy Law

Under certain circumstances, the sale of a not-for-profit healthcare facility is subject to review by the Attorney General. Cal. Corp. Code §5914 provides in relevant part (emphasis added):

> Any nonprofit corporation that is defined in Section 5046 and operates or controls a health facility, as defined in Section 1250 of the Health and Safety Code, or operates or controls a facility that provides similar health care, regardless of whether it is currently operating or providing health care services or has a suspended license, shall be required to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to do either of the following:
>
> (A) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of, its assets to a *for-profit corporation or entity or to a mutual benefit corporation or entity* when a material amount of the assets of the nonprofit corporation are involved in the agreement or transaction.
>
> (B) Transfer control, responsibility, or governance of a material amount of the assets or operations of the nonprofit corporation to any *for-profit corporation or entity or to any mutual benefit corporation or entity*.

Here, the sale is not subject to Attorney General review because the Hospitals are being sold to Santa Clara, which is a public entity, not a for-profit corporation or mutual benefit corporation. Notwithstanding its inability to review the sale, the Attorney General contends that the Conditions—which were imposed in connection with the Attorney General's §5914 review authority—nonetheless remain binding upon any subsequent purchaser of the Hospitals. In support of this contention, the Attorney General cites Cal. Corp. Code §5926, which provides: "The Attorney General may enforce conditions imposed on the Attorney General's consent to an agreement or transaction pursuant to Section 5914 or 5920 to the fullest extent provided by law."

The Court finds that neither Cal. Corp. Code §5926 nor any of the other provisions set forth in Cal. Corp. Code §§ 5914–30 provide the Attorney General with authority to enforce the Conditions against Santa Clara if Santa Clara acquires the Hospitals. In reaching this conclusion, the Court construes the California Corporations Code consistent with California's rules of statutory construction. *See Fed. Sav. & Loan Ins. Corp. v. Butler*, 904 F.2d 505, 510 (9th Cir. 1990) (applying California's rules of statutory construction to interpret Cal. Civ. Proc. Code § 877).

Under California law, the "ultimate task" in statutory interpretation "is to ascertain the Legislature's intent." *People v. Massie*, 19 Cal.4th 550, 569, 79 Cal.Rptr.2d 816, 967 P.2d 29 (1998). "Ordinarily, the words of the statute provide the most reliable indication of legislative intent." *Pac. Gas & Elec. Co. v. Cty. of Stanislaus*, 16 Cal.4th 1143, 1152, 69 Cal.Rptr.2d 329, 947 P.2d 291 (1997). Only where the statutory language is ambiguous may the Court consider "evidence of the Legislature's intent beyond the words of the statute," such as the "statutory scheme of which the provision is a part, the history and background of the statute, the apparent purpose, and any considerations of constitutionality …." *Hughes v. Bd. of Architectural Examiners*, 17 Cal.4th 763, 776, 952 P.2d 641 (1998). "When statutory language is … clear and unambiguous there is no need for construction, and *courts should not indulge in it*." *Delaney v.*

Superior Court, 50 Cal.3d 785, 800, 268 Cal.Rptr. 753, 789 P.2d 934 (1990) (emphasis in original). However, the "language of a statute should not be given a literal meaning if doing so would result in absurd consequences which the Legislature did not intend." *Younger v. Superior Court*, 21 Cal.3d 102, 113, 145 Cal.Rptr. 674, 577 P.2d 1014 (1978).

The Legislature enacted Cal. Corp. Code § 5914 to ensure that the public was not deprived of the benefits of charitable health facilities as a result of the transfer of those facilities' assets to for-profit entities. In enacting § 5914, the Legislature found:

> Charitable, nonprofit health facilities have a substantial and beneficial effect on the provision of health care to the people of California, providing as part of their charitable mission uncompensated care to uninsured low-income families and under-compensated care to the poor, elderly, and disabled.
>
> Transfers of the assets of nonprofit, charitable health facilities to the for-profit sector, such as by sale, joint venture, or other sharing of assets, directly affect the charitable use of those assets and may affect the availability of community health care services....
>
> It is in the best interests of the public to ensure that the public interest is fully protected whenever the assets of a charitable nonprofit health facility are transferred out of the charitable trust and to a for-profit or mutual benefit entity.

1996 Cal. Legis. Serv. Ch. 1105 (A.B. 3101) (West).

As discussed, the sale of a nonprofit health facilities' assets to a public entity (such as Santa Clara) are not subject to Attorney General review. This exception is consistent with the statute's objective of ensuring that nonprofit health assets are operated consistent with a charitable mission and in the public interest, because public entities are required by law to furnish healthcare services to those in need. Cal. Welf. & Inst. Code §17000 requires public entities to provide support, including healthcare, to indigent members of the public:

> Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.

As one court has explained, "[s]ection 17000 imposes various obligations on counties with respect to their indigent residents. Among other obligations, courts have interpreted section 17000 as requiring counties to provide indigent residents with emergency and medically necessary care." *Fuchino v. Edwards-Buckley*, 196 Cal. App. 4th 1128, 1134, 126 Cal. Rptr. 3d 886, 890 (2011).

As set forth above, the Attorney General's position is that the Conditions remain binding upon Santa Clara, notwithstanding the Attorney General's inability to review the sale. The Attorney General's reliance upon Cal. Corp. Code §5926 in support of this position is unavailing. Section 5926 provides only that the Attorney General may enforce the Conditions to the fullest extent provided by law. However, the Attorney General has not identified the specific provisions of California law that permit the continued enforcement of the Conditions.[26] This

[26] The Attorney General asserts that Art. V, §13 of the California Constitution grants him authority to enforce the Conditions. Art. V, §13 is a general provision stating only that the Attorney General has the authority to "see that the laws of the State are uniformly and adequately enforced"; it contains nothing specifically addressing the situation

omission is particularly glaring in view of the Attorney General's lack of authority to review the sale.

In reaching this conclusion, the Court finds it significant that the Attorney General has failed to identify the statutory basis for its position even after being afforded an opportunity to respond to the Court's Preliminary Findings. The Preliminary Findings advised the Attorney General that because he had failed to identify the statutory authority for continued enforcement of the Conditions, the Court intended to authorize the Debtors to sell the Hospitals free and clear of the Conditions. In response to the Preliminary Findings, the Attorney General cited to provisions in the Conditions that purport to make the Conditions legally binding upon any entity acquiring the Hospitals. Notably, the Attorney General did not cite to any provision of California law entitling him to enforce successorship liability under the circumstances of this case.

The Attorney General's reliance upon provisions purporting to make the Conditions binding upon all successors, regardless of the circumstances under which such successors acquire the Hospitals, is an impermissible attempt to expand his regulatory authority over the Hospitals. Provisions within the Conditions are enforceable only to the extent that they are supported by California law.

Furthermore, the Attorney General's contention that the Conditions remain binding upon Santa Clara is inconsistent with the Cal. Corp. Code §5914 and its legislative history. The concern motivating enactment of the statute was to prevent charitable assets from falling into the hands of for-profit entities who would not continue to use those assets for charitable purposes. The concern has no applicability where the assets are transferred to a public entity, which has independent statutory obligations to maintain the assets' charitable character, as discussed above.

Because the Attorney General has no authority to review the sale of the Hospitals to Santa Clara, and because the Attorney General has identified no statutory provision permitting his continued enforcement of the Conditions under the circumstances, the Court finds that the Debtors may sell the Hospitals free and clear of the Conditions under applicable nonbankruptcy law.

D. The Attorney General's Request for a 14-day Stay of the Sale Order is Denied

Bankruptcy Rule 6004(h) provides that an "order authorizing the … sale … of property … is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Attorney General requests that the stay imposed by Bankruptcy Rule 6004(h) remain in effect. According to the Attorney General, a 14-day stay is necessary because the "proposed sale will have a significant impact on the health and safety of the surrounding communities."[27] Debtors assert that the 14-day stay should not apply so that the sale may close as expeditiously as possible. The sale is currently projected to close at the end of February 2019.

The 1999 Advisory Committee Note to Bankruptcy Rule 6004 states that the rule is intended "to provide sufficient time for a party to request a stay pending appeal of an order authorizing the … sale … of property under §363(b) of the Code before the order is implemented."

To enable the sale to close expeditiously, the Sale Order shall be effective immediately upon entry, notwithstanding Bankruptcy Rule 6004(h). Because the sale will not close until the end of February 2019, in the Court's view, the Attorney General's appeal of the Sale Order will not

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presented here. The Attorney General's reliance upon *D'Amico v. Board of Medical Examiners*, 11 Cal. 3d 1, 14, 520 P.2d 10 (1974) is similarly misplaced. *D'Amico* states that the Attorney General possesses extensive statutory powers to protect the public interest but does not specifically address any of the legal issues presented here.

[27] Doc. No. 1140 at 15.

likely be rendered moot by the Court's waiver of the 14-day stay.[28] Accordingly, the Attorney General will suffer no prejudice from waiver of the stay. On the other hand, waiving the stay will benefit the Debtors, Santa Clara, and the estate by enabling the parties to immediately begin performing the significant work that is a prerequisite to the closing.

III. Conclusion

Based upon the foregoing, the Attorney General's objections to the Sale Motion are overruled, and the Debtors are authorized to sell the Hospitals free and clear of the Conditions, pursuant to §363(f)(1). The Court will enter the proposed Sale Order submitted by the Debtors.

###

Date: December 26, 2018

Ernest M. Robles
United States Bankruptcy Judge

[28] Of course, only the appellate court has the authority to determine whether any appeal of the Sale Order is moot.

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FILED & ENTERED

DEC 27 2018

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

CHANGES MADE BY COURT

In re

VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,

Debtors and Debtors In Possession.

☒ Affects All Debtors

☐ Affects Verity Health System of California, Inc.
☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☐ Affects St. Francis Medical Center
☐ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

Jointly Administered With:
Case No. 2:18-bk-20162-ER
Case No. 2:18-bk-20163-ER
Case No. 2:18-bk-20164-ER
Case No. 2:18-bk-20165-ER
Case No. 2:18-bk-20167-ER
Case No. 2:18-bk-20168-ER
Case No. 2:18-bk-20169-ER
Case No. 2:18-bk-20171-ER
Case No. 2:18-bk-20172-ER
Case No. 2:18-bk-20173-ER
Case No. 2:18-bk-20175-ER
Case No. 2:18-bk-20176-ER
Case No. 2:18-bk-20178-ER
Case No. 2:18-bk-20179-ER
Case No. 2:18-bk-20180-ER
Case No. 2:18-bk-20181-ER

Hon. Judge Ernest M. Robles

ORDER (A) AUTHORIZING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS TO SANTA CLARA COUNTY FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF AN UNEXPIRED LEASE RELATED THERETO; AND (C) GRANTING RELATED RELIEF

Hearing:
Date: December 19, 2018
Time: 10:00 am
Location: Courtroom 1568
255 E. Temple St., Los Angeles, CA

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

This matter came before the Court on the *Motion For The Entry Of (I) An Order (1) Approving Form Of Asset Purchase Agreement For Stalking Horse Bidder And For Prospective Overbidders To Use, (2) Approving Auction Sale Format, Bidding Procedures And Stalking Horse Bid Protections, (3) Approving Form Of Notice To Be Provided To Interested Parties, (4) Scheduling A Court Hearing To Consider Approval Of The Sale To The Highest Bidder And (5) Approving Procedures Related To The Assumption Of Certain Executory Contracts And Unexpired Leases; And (II) An Order (A) Authorizing The Sale Of Property Free And Clear Of All Claims, Liens And Encumbrances* (the "Motion") [Docket No. 365], filed by Verity Health System of California, Inc. ("VHS"), and the above-referenced affiliated debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (the "Debtors"), for the entry of an order, pursuant to §§ 105(a), 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, and 9014, and LBR 6004-1.[1]

At the previous hearing on the Motion on October 31, 2018 (the "Bidding Procedures Hearing"), the Court considered various objections (the "Premature Objections") filed by: (i) the Federal Communications Commission ("FCC") [Docket No. 437]; (ii) the United States Department of Health and Human Services ("HHS") [Docket No. 447, 562, and 613]; (iii) the California Attorney General ("CAG") [Docket No. 463, 599, 605, 608, and 619]; (iv) entities who are parties to or benefit from various collective bargaining agreements with the Debtors [Docket No. 450, 458, 460, 465, and 597]; (v) the Pension Benefit Guaranty Corporation ("PBGC") [Docket No. 439]; (vi) the Retirement Plan for Hospital Employees [Docket No. 460]; (vii) OCH Forest 1 [Docket Nos. 452 and 561]; (viii) Premier and Infor [Doc. Nos. 444, 561, and 592]; and (ix) the MOB Financing Entities [Docket No. 500]. The Debtors filed an omnibus reply to the majority of the objections [Docket No. 561], and separate replies to the HHS [Docket No. 562], and the CAG [Docket No. 560] objections. The Court ruled that the Premature Objections were premature and preserved for the Sale Hearing, as set forth in order granting the Motion (the

[1] Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, all "Rule" references are to the Federal Rules of Bankruptcy Procedure, and all "LBR" references are to the Local Bankruptcy Rules for the United States Bankruptcy Court for the Central District of California.

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"Bidding Procedures Order") [Docket No. 724]. Any additional objections that were filed and overruled at the Bidding Procedures Hearing are not listed herein.

The Court, having reviewed the Memorandum [Docket No. 1041] and the notice of errata related thereto [Docket No. 1050], the Declarations of Richard Adcock [Docket Nos. 8 and 393], James Moloney [Docket Nos. 394 and 1041] and Jeffrey Smith [Docket No. 1044] in support of the Motion, the *Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May Be Assumed and Assigned* [Docket No. 810], the *Supplement to Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May be Assumed and Assigned* [Docket No. 998], the *Notice That No Auction Shall Be Held* [Docket No. 1005], the response by the CAG [Docket No. 1066], the *Amended Notice of Contracts Designated by Santa Clara County for Assumption and Assignment* [Docket No. 1110], the objections filed by various counter-parties to certain contracts and leases [Docket Nos. 882, 889, 904-05, 913-14, 919, 920-21, 923, 928-29, 931, 933, 946, 970, 986, 1016, 1018, 1043, 1046, 1057-59, 1062, 1068-69, 1070-71,1080, 1085, 1088-89, 1091-96, 1120-21], as set forth on **Exhibit "A"** attached to the *Notice Of Filing Listing Objections To Proposed Cure Amounts And Assumption And Assignment Of Certain Unexpired Executory Contracts And Unexpired Leases* (the "Cure Objections") [Docket No. 1145], the California Department of Health Care Services ("DHCS") [Docket No. 906], and the California Nurses Association and Stationary Engineers Local 39 [Docket Nos. 1057-1062, 1067-1071], the Premature Objections and any withdrawals thereof [Docket Nos. 1090 and 1100], the statements, arguments and representations of the parties made at the Sale Hearing; and the entire record of these cases; and the Court, having determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and their shareholders, and that the legal and factual bases set forth in the Motion and presented at the Sale Hearing establish just cause for the relief granted herein and for the reasons set forth in the *Memorandum of Decision Overruling Objections of the California Attorney General to the Debtor's Sale Motion* [Docket No. 1146]; ~~Court's tentative ruling [Docket No. ___], the *Order Providing Notice Of The Court's Intent To Authorize The Debtors To Sell Hospitals Free And*~~

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Clear Of The 2015 Conditions Asserted By The California Attorney General [Docket No. 1125], and the responses thereto [Docket Nos. 1136- 37, 1139-41]; and all objections to the Motion, if any, having been withdrawn or overruled; and after due deliberation and sufficient good cause appearing therefor,

THE COURT HEREBY FINDS AND CONCLUDES THAT:[2]

A. Jurisdiction and Venue. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter relates to the administration of the Debtors' bankruptcy estates and is accordingly a core proceeding pursuant to 28 U.S.C. § 157(b)(2) (A), (M), (N) and (O). Venue of these cases is proper in this District and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Statutory Predicates. The statutory predicates for the relief requested in the Motion are (i) §§ 105(a), 363(b), (f), (k), (l) and (m), and 365, (ii) Rules 2002(a)(2), 2002(c)(1) and (d), 6004 (a), (b), (c), (e), (f) and (h), 6006(a), (c) and (d), 9006, 9007, 9013 and 9014, and (iii) LBR 6004-1 and 9013-1.

C. Notice. As evidenced by the affidavits of service previously filed with the Court, the Debtors have provided proper, timely, adequate and sufficient notice with respect to the following: (i) the Motion and the relief sought therein, including the entry of this Sale Order and the transfer and sale of the assets (the "Purchased Assets"), as set forth in the Asset Purchase Agreement, dated October 1, 2018, a copy of which is attached as Exhibit "A" to Docket No. 365 (the "APA"); (ii) the Sale Hearing; (iii) the *Notice That No Auction Shall Be Held*; and (iv) the assumption and assignment of the executory contracts and unexpired leases and proposed cure amounts owing under such executory contracts and unexpired leases (the "Cure Amounts"); and no further notice of the Motion, the relief requested therein or the Sale Hearing is required. The Debtors have also complied with all obligations to provide notice of the Auction, the Sale

[2] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052, made applicable to this proceeding pursuant to Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

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Hearing, the proposed sale and otherwise, as required by the Bidding Procedures Order. A reasonable opportunity to object and to be heard regarding the relief provided herein has been afforded to parties-in-interest.

D. Arm's Length Transaction. The APA and other documents and instruments (the "Transaction Documents") related to and connected with this transaction (the "Transaction") and the consummation thereof were negotiated and entered into by the Debtors and the County of Santa Clara, a political subdivision of the State of California ("SCC"), as Purchaser under the APA without collusion, in good faith and through an arm's length bargaining process. Neither SCC nor any of its affiliates or representatives is an "insider" of the Debtors, as that term is defined in § 101(31). None of the Debtors, SCC, or their respective representatives engaged in any conduct that would cause or permit the APA, any of the other Transaction Documents or the Transaction to be avoided under § 363(n), or have acted in any improper or collusive manner. The terms and conditions of the APA and the other Transaction Documents, including, without limitation, the consideration provided in respect thereof, are fair and reasonable, and are not avoidable and shall not be avoided, and no damages may be assessed against SCC or any other party, as set forth in § 363(n). The consideration provided by SCC is fair and adequate and constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable laws of the United States, including the State of California.

E. Good Faith Purchaser. SCC has proceeded in good faith and without collusion in all respects in connection with the sale process, in that: (i) SCC, in proposing and proceeding with the Transaction in accordance with the APA, recognized that the Debtors were free to deal with other interested parties; (ii) SCC agreed to provisions in the APA that would enable the Debtors to accept a higher and better offer; (iii) SCC complied with all of the provisions in the Bidding Procedures Order applicable to SCC; (iv) all payments to be made by SCC and other agreements entered into or to be entered into between SCC and the Debtors in connection with the Transaction have been disclosed; (v) the negotiation and execution of the APA and related Transaction Documents were conducted in good faith and constituted an arm's length transaction;

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(vi) SCC did not induce or cause the chapter 11 filings by the Debtors; and (vii) the APA was not entered into, and the Transaction being consummated pursuant to and in accordance with the APA is not being consummated, for the purpose of hindering, delaying or defrauding creditors of the Debtors. SCC is therefore entitled to all of the benefits and protections provided to a good-faith purchaser under § 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Transaction shall not affect the validity of the Transaction or SCC's status as a "good faith" purchaser.

F. Justification for Relief. Good and sufficient reasons for approval of the APA and the other Transaction Documents and the Transaction have been articulated to this Court in the Motion and at the Sale Hearing, and the relief requested in the Motion and set forth in this Sale Order is in the best interests of the Debtors, their estates, and their creditors. The Debtors have demonstrated through the Motion and other evidence submitted at the Sale Hearing both (i) good, sufficient and sound business purpose and justification and (ii) compelling circumstances for the transfer and sale of the Purchased Assets as provided in the APA outside the ordinary course of business, and (iii) such transfer and sale is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors.

G. Free and Clear. In accordance with §§ 363(b) and 363(f), the consummation of the Transaction pursuant to the Transaction Documents will be a legal, valid, and effective transfer and sale of the Purchased Assets and will vest in SCC, through the consummation of the Transaction, all of the Debtors' right, title, and interest in and to the Purchased Assets, free and clear of all liens, claims, interests, rights of setoff, netting and deductions, rights of first offer, first refusal and any other similar contractual property, legal or equitable rights, and any successor or successor-in-interest liability theories (collectively, the "Encumbrances"). The Debtors have demonstrated that one or more of the standards set forth in § 363(f)(1)-(5) have been satisfied. Those holders of Encumbrances who did not object, or who withdrew their objections, to the Sale or the Motion are deemed to have consented pursuant to § 363(f)(2). Those holders of Encumbrances who did object fall within one or more of the other subsections

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of § 363(f). All holders of the Encumbrances in the Purchased Assets are adequately protected by having their respective Encumbrances attach to the Debtors' interests in the proceeds of the sale of the Purchased Assets under the APA (subject to any Challenge within the meaning of the Final DIP Order that has been, or may be, timely filed), and any related documents or instruments delivered in connection therewith, whenever and wherever received (the "Sale Proceeds") to the extent and manner herein provided.

H. Prompt Consummation. The Debtors have demonstrated good and sufficient cause to waive the stay requirement under Rules 6004(h) and 6006(d). Time is of the essence in consummating the Transaction, and it is in the best interests of the Debtors and their estates to consummate the Transaction within the timeline set forth in the Motion and the APA. The Court finds that there is no just reason for delay in the implementation of this Order, and expressly directs entry of judgment as set forth in this Order.

I. Assumption of Executory Contracts and Unexpired Leases. The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign to SCC the Currently Identified Designated Contracts (as defined and identified in paragraph 15 below) and to the extent subsequently identified by SCC pursuant to paragraph 16 below, the Subsequently Identified Designated Contracts (as defined in paragraph 16 below) (the Currently Identified Designated Contracts and the Subsequently Identified Contracts are collectively referred to herein as the "Designated Contracts") in connection with the consummation of the Transaction, and the assumption and assignment of the Designated Contracts is in the best interests of the Debtors and their estates.

J. Cure/Adequate Assurance. In connection with the Closing, and pursuant to the APA, the Debtors (i.e., O'Connor Hospital ("OCH") and Saint Louise Regional Hospital ("SLRH")) will have cured, unless otherwise ordered, any and all defaults existing on or prior to the Closing under any of the Designated Contracts, within the meaning of § 365(b)(1)(A), by payment of the amounts and in the manner set forth below. SCC has provided or will provide adequate assurance of future performance of and under the Designated Contracts within the

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meaning of § 365(b)(1)(C) and § 365(f)(2)(B), and shall have no further obligation to provide assurance of performance to any counterparty to a Designated Contract. Pursuant to § 365(f), the Designated Contracts to be assumed by the Debtors and assigned to SCC under the APA shall be assigned and transferred to, and remain in full force and effect for the benefit of, SCC notwithstanding any provision in such Designated Contracts prohibiting their assignment or transfer. The Debtors have demonstrated that no other parties to any of the Designated Contracts has incurred any actual pecuniary loss resulting from a default on or prior to the Closing under any of the Designated Contracts within the meaning of § 365(b)(1)(B). Pursuant to § 365(f), the Designated Contracts to be assumed by the Debtors and assigned to SCC at the Closing shall be assigned and transferred to, and remain in full force and effect for the benefit of, SCC notwithstanding any provision in such contracts or other restrictions prohibiting their assignment or transfer.

K. Rejection of Executory Contracts and Unexpired Leases. The Debtors have demonstrated that it is a reasonable and appropriate exercise of their sound business judgment for OCH and SLRH to reject all of their executory contracts and unexpired leases, excluding (i) Designated Contracts, (ii) any prepetition multiparty contract affecting more than one Debtor in addition to OCH and/or SLRH, and (iii) any collective bargaining agreement, pension plan or health and welfare plan providing collectively bargained benefits to which OCH and/or SLRH is a party or sponsor, which matters shall be scheduled for determination as provided in paragraph 33 below. Each such executory contract rejection is subject only to the conditions set forth in paragraphs 18, 31, and 32. The Debtors shall file an appropriate motion to reject such contracts, covered by this paragraph K, prior to Closing and shall request therein that the rejection be effective as of the Closing or as otherwise appropriate.

L. Highest or Otherwise Best Offer. The Debtors solicited offers and noticed the Auction in accordance with the provisions of the Bidding Procedures Order. The Auction was duly noticed, the sale process was conducted in a non-collusive manner and the Debtors afforded a full, fair and reasonable opportunity for any person or entity to make a higher or otherwise

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better offer to purchase the Purchased Assets. No other Qualified Bid (as defined in the Bidding Procedures Order) was received by the Partial Bid Deadline or the Bid Deadline (as defined in the Bidding Procedures Order). Accordingly, on December 7, 2018, the Debtors filed the *Notice That No Auction Shall Be Held*. The transfer and sale of the Purchased Assets to SCC on the terms set forth in the APA constitutes the highest or otherwise best offer for the Purchased Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination, in consultation with the Official Committee of Unsecured Creditors (the "Committee") and the Prepetition Secured Creditors (as defined in the Final DIP Order defined below), that the APA constitutes the highest or best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

M. No *De Facto* or *Sub Rosa* Plan of Reorganization. The sale of the Purchased Assets does not constitute a *de facto* or *sub rosa* plan of reorganization or liquidation because it does not propose to (i) impair or restructure existing debt of, or equity or membership interests in, the Debtors, (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors, (iii) circumvent chapter 11 safeguards, including those set forth in §§ 1125 and 1129, or (iv) classify claims or equity or membership interests.

N. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED and APPROVED in all respects to the extent provided herein.

2. All objections with regard to the relief sought in the Motion that have not been withdrawn, waived, settled, or provided for herein or in the Bidding Procedures Order, including any reservation of rights included in such objections, are overruled on the merits with prejudice. To the extent of any inconsistency between this Sale Order and the Bidding Procedures Order, the terms of this Sale Order shall prevail.

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3. Pursuant to §§ 105(a), 363(b), 363(f), and 365, the Transaction, including the transfer and sale of the Purchased Assets to SCC on the terms set forth in the APA, is approved in all respects, and the Debtors are authorized and directed to consummate the Transaction in accordance with the APA, including, without limitation, by executing all of the Transaction Documents (and any ancillary documents or instruments that may be reasonably necessary or desirable to implement the APA or the Transaction) and taking all actions necessary and appropriate to effectuate and consummate the Transaction (including the transfer and sale of the Purchased Assets) in consideration of the Purchase Price (as defined in Section 1.1 of the APA) upon the terms set forth in the APA, including, without limitation, assuming and assigning to SCC the Designated Contracts. The Debtors and SCC shall have the right to make any mutually agreeable, non-material changes to the APA, which shall be in writing signed by both parties, without further order of the Court provided, that after reasonable notice, the Committee, the DIP Agent (as defined in the Final DIP Order defined below), and the Prepetition Secured Creditors, do not object to such changes. Any timely objection by the aforementioned parties to any agreed non-material changes to the APA may be resolved by the Court on shortened notice.

4. As of the Closing, (i) the Transaction set forth in the APA shall effect a legal, valid, enforceable and effective transfer and sale of the Purchased Assets to SCC free and clear of all Encumbrances, as further set forth in the APA and this Sale Order; and (ii) the APA, and the other Transaction Documents, and the Transaction, shall be enforceable against and binding upon, and not subject to rejection or avoidance by, the Debtors, any successor thereto including a trustee or estate representative appointed in the Bankruptcy Cases, the Debtors' estates, all holders of any Claim(s) (as defined in the Bankruptcy Code) against the Debtors, whether known or unknown, any holders of Encumbrances on all or any portion of the Purchased Assets, all counterparties to the Designated Contracts and all other persons and entities.

5. Encumbrances in and to Purchased Assets shall attach (subject to any Challenge within the meaning of the Final DIP Order that has been, or may be, timely filed) to the Sale Proceeds of such Purchased Assets with each such Encumbrance having the same force, extent,

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effect, validity and priority as such Encumbrance had on the Purchased Assets giving rise to the Sale Proceeds immediately prior to the Closing. For the avoidance of doubt, the foregoing force, extent, effect, validity and priority shall: (i) reflect the security interests, liens (including any Prepetition Replacement Liens arising for diminution of value, if any) and rights, powers and authorities that have been granted to the DIP Agent, the DIP Lender and to the Prepetition Secured Creditors, as applicable, pursuant to that certain *Final Order (I) Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying Automatic Stay, and (VI) Granting Related Relief* [Docket No. 409] (the "Final DIP Order"); and (ii) be subject to any Challenge within the meaning of the Final DIP Order that has been, or may be, timely filed. In addition, the Intercreditor Agreement (as defined in the Final DIP Order) shall apply with respect to the rights of the parties thereto in and to the Sale Proceeds and the Escrow Deposit Account, to the extent of and in accordance with its terms with all parties reserving all rights thereunder.

6. Subject to the fulfillment of the terms and conditions of the APA, this Sale Order shall, as of the Closing, be considered and constitute for all purposes a full and complete general assignment, conveyance, and transfer of the Purchased Assets and/or a bill of sale transferring all of the Debtors' rights, title and interest in and to the Purchased Assets to SCC. Consistent with, but not in limitation of the foregoing, each and every federal, state, and local governmental agency or department, except as stated herein, is hereby authorized and directed to accept all documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA and approved in this Sale Order. A certified copy of this Order may be filed with the appropriate clerk and/or recorded with the appropriate recorder to cancel any Encumbrances of record.

7. Any person or entity that is currently, or on the Closing Date may be, in possession of some or all of the Purchased Assets is hereby directed to surrender possession of

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such Purchased Assets either to (a) the Debtors before the Closing or (b) to SCC or its designee upon the Closing.

8. The transfer of the Purchased Assets pursuant to the Transaction Documents shall be a legal, valid, and effective transfer and shall, in accordance with §§ 105(a) and 363(f), and upon consummation of the Transaction, including, without limitation, payment of the Purchase Price to the Debtors, vest SCC with all right, title, and interest in the Purchased Assets, free and clear of all Encumbrances. Upon closing of the Transaction, SCC shall take title to and possession of the Purchased Assets, subject only to the Assumed Obligations, as set forth in the APA. The transfer of the Purchased Assets from the Debtors to SCC constitutes a transfer for reasonable equivalent value and fair consideration under the Bankruptcy Code and the laws of the State of California.

9. Following the Closing, no holder of any Encumbrance against the Debtors or upon the Purchased Assets shall interfere with SCC's respective rights in, title to or use and enjoyment of the Purchased Assets. All persons and entities are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Debtors to sell and transfer the Purchased Assets to SCC, including the assumption and assignment of the Designated Contracts.

10. SCC shall not be deemed, as a result of any action taken in connection with, or as a result of the Transaction (including the transfer and sale of the Purchased Assets), to: (i) be a successor, continuation or alter ego (or other such similarly situated party) to the Debtors or their estates by reason of any theory of law or equity, including, without limitation, any bulk sales law, doctrine or theory of successor liability, or any theory or basis of liability regardless of source of origin; or (ii) have, *de facto* or otherwise, merged with or into the Debtors; or (iii) be a mere continuation, *alter ego*, or substantial continuation of the Debtors. Other than the Assumed Liabilities, SCC is not assuming any of the Debtors' debts.

11. This Sale Order (i) shall be effective as a determination that, on Closing, all Encumbrances existing against the Purchased Assets before the Closing have been

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unconditionally released, discharged and terminated, and that the transfers and conveyances described herein have been effected, and (ii) shall be binding upon and shall govern the acts of all persons and entities. If, following a reasonable written request made by the Debtors, any person or entity that has filed financing statements or other documents or agreements evidencing any Encumbrances against the Purchased Assets shall not have delivered to the Debtors for use at or in connection with Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Encumbrances which the person or entity has with respect to the Purchased Assets, then SCC and/or the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to such Purchased Assets. For the avoidance of doubt, such statements, instruments, releases and other documents shall not impair Encumbrances that attach (subject to any Challenge within the meaning of the Final DIP Order that has been, or may be, timely filed) to the Sale Proceeds or the terms of this Order, including, but not limited to paragraphs 5 and 13 hereof.

12. In accordance with the APA, concurrently with the Closing, SCC shall pay that portion of the Purchase Price due at Closing, by wire transfer of immediately available funds, to Debtors' Escrow Deposit Accounts (defined below), subject to the adjustments set forth in Section 1.1.1 of the APA. Any direct expenses of the Sale shall be disclosed by Debtors to the DIP Agent, the Prepetition Secured Creditors, and the Committee in advance of the Closing.

13. The terms and conditions of the Final DIP Order shall apply with respect to the Sale Proceeds and Escrow Deposit Accounts (defined herein). Without limiting the foregoing, the Debtors shall comply with paragraph 4 of the Final DIP Order in the following manner:

(a) the Debtors shall direct SCC and any post-closing escrow agent appointed pursuant to the terms of the APA to remit all Sale Proceeds to be received by the Debtors at Closing or thereafter in cash, to deposit such Sale Proceeds in separate accounts labeled "Santa Clara Sale Proceeds Account," in the name of each Debtor that is a Seller within the meaning of the APA (each such hereafter referred to as "Escrow Deposit Account");

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(b) in giving direction to SCC pursuant to sub-paragraph (a), above, the Debtors shall exercise their reasonable business judgment, in good faith, and allocate the Sale Proceeds among the Escrow Deposit Accounts on the basis of the value of each Debtor's Purchased Assets as of the Closing (which allocation, for the avoidance of doubt, shall be subject to the reservations of rights in paragraph 4 of the Final DIP Order and footnote 5 of Exhibit 1 of the Bidding Procedures Order); provided further that nothing in this paragraph shall waive or limit any rights the Committee may have in connection with the confirmation of a proposed chapter 11 plan for any of the Debtors' cases (including the right to seek to reallocate estate values);

(c) without limitation of the rights of the DIP Agent and DIP Lender under the DIP Financing Agreements and the Final DIP Order, no funds held in any Escrow Deposit Account shall be (i) commingled with any other funds of the applicable Debtor or any of the other Debtors or (ii) used by the Debtors for any purpose, except as provided in this Order, the DIP Credit Agreements or Final DIP Order without further order of this Court, after reasonable notice under the circumstances to the DIP Agent, the Prepetition Secured Creditors and the Committee;

(d) each Escrow Deposit Account shall be subject to a deposit account control agreement in favor of the DIP Agent and DIP Lender, and subject to, without limitation of the rights of the DIP Agent and DIP Lender under the DIP Financing Agreements and the Final DIP Order with respect to the Sale Proceeds and Escrow Deposit Account, including, without limitation, following the occurrence of an Event of Default or the Revolving Loan Termination Date (as defined in the DIP Credit Agreement), the Debtors shall not be permitted to use the funds held in any Escrow Deposit Account for any purpose, except as provided in paragraph 14, 15, 16, and 17 of this Order, and to fund any Purchase Price adjustment in favor of the Purchaser, without first obtaining the consent of the DIP Agent, DIP Lender and the Prepetition Secured Creditors or obtaining an order of the Court pursuant to §§ 363 or 1129 after reasonable notice under the circumstances to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors and the Committee and, if necessary, a hearing thereon.

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14. Concurrently with the Closing or as soon thereafter as is possible, and in accordance with the APA, the Debtors (i.e., the Hospital Debtors defined in the APA) shall pay out of the Sale Proceeds to the counter-parties to the Designated Contracts the cure amounts set forth in the *Debtors' Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May Be Assumed and Assigned* [Docket No. 810], the *Supplement to Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May be Assumed and Assigned* [Docket No. 998], the *Amended Notice of Contracts Designated by Santa Clara County for Assumption and Assignment* [Docket No. 1110] (collectively, the "Cure Notices"), or as otherwise agreed to by the Debtors, SCC and the applicable counter-parties thereto or ordered by this Court after a continued hearing on the Cure Objections (the "Designated Cure Amounts").

15. To the extent that any of the contracts and/or leases, which give rise to the Designated Cure Amounts and are set forth in the *Amended Notice of Contracts Designated by Santa Clara County for Assumption and Assignment* [Docket No. 1110] (the "Currently Identified Designated Contracts") are executory contracts or unexpired leases (over which the Court is not making any such determination at this time), then in connection with the Closing, the Debtors shall be deemed to have assumed all such Currently Identified Designated Contracts (so that they are deemed part of the Designated Contracts) and to have assigned them to SCC, and SCC shall have assumed all obligations owing under all such Currently Identified Designated Contracts arising after and following the Closing. In the event that the Court ultimately determines that any such counter-parties to the Currently Identified Designated Contracts (the "Currently Identified Designated Contract Counter-Parties") have an allowed claim against the Debtors which exceeds the Designated Cure Amounts, the difference will be paid by the Debtors out of the Sale Proceeds and shall not be the responsibility of SCC. The Court shall resolve any and all disputes which may arise between the Debtors, SCC and any of the Currently Identified Designated Contract Counter-Parties over whether the Currently Identified Designated Contracts are executory contracts or unexpired leases and whether any of the Currently Identified Designated Contract

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Counter-Parties are entitled to an allowed claim against the Debtors which exceeds the Designated Cure Amounts.

16. All of the Currently Identified Designated Contracts, to the extent they are executory contracts or unexpired leases, shall be part of the Designated Contracts that will be assumed by the Debtors and assigned to SCC at the Closing. In the event that SCC elects to add any other of the Debtors' executory contracts or unexpired leases to the list of Designated Contracts (the "Subsequently Identified Designated Contracts"), the Debtors shall (i) file a notice with the Court, by January 23, 2019, identifying all such Subsequently Identified Designated Contracts and their respective cure amounts, and (ii) serve such notice by over-night mail on all counter-parties to the Subsequently Identified Designated Contracts (the "Subsequently Identified Designated Contract Counter-Parties"). All Subsequently Identified Designated Contracts shall be assumed by the Debtors and assigned to SCC at the Closing, with the Debtors to be obligated to pay all cure amounts owing to such Subsequently Identified Designated Contract Counter-Parties concurrently with the Closing, as set forth in the Debtors' notice, or as otherwise agreed to by the Debtors, SCC and the applicable counter-parties thereto, or ordered by the Court in accordance with paragraph 36 below (the "Additional Cure Amounts").

17. Upon the Closing, the Debtors are authorized and directed to assume, assign and/or transfer each of the Designated Contracts to SCC, including the Currently Identified Designated Contracts and any Subsequently Identified Designated Contracts (all counterparties to the Currently Identified Designated Contracts and any Subsequently Identified Designated Contracts collectively, the "Contract Counter-Parties"). At the Closing, the Debtors shall pay out of the Sale Proceeds (i) ~~to~~ the Designated Cure Amounts identified in paragraph 14 above, and (ii) the Additional Cure Amounts. Payment by the Debtors of such Designated Cure Amounts and Additional Cure Amounts are deemed the necessary and sufficient amounts to "cure" all "defaults" with respect to all such Currently Identified Designated Contracts and Subsequently Identified Designated Contracts under § 365(b). The payment by the Debtors shall (i) effect a cure of all defaults existing under all such Currently Identified Designated Contracts, and (ii) compensate all such Contract Counter-Parties for any actual

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pecuniary loss resulting from any such default. The Debtors shall then have assumed and assigned to SCC, effective as of the Closing, all of the Designated Contracts (comprised of both all Currently Identified Designated Contracts and all Subsequently Identified Designated Contracts, if any), and, pursuant to § 365(f), the assignment by the Debtors of all such Designated Contracts to SCC shall not be a default thereunder. After the payment of the Designated Cure Amounts and the Additional Cure Amounts by the Debtors, neither the Debtors nor SCC shall have any further liabilities to any Contract Counter-Parties, other than SCC's obligations under the Designated Contracts that accrue and become due and payable after the Closing Date. In addition, adequate assurance of future performance has been demonstrated by or on behalf of SCC with respect to all of the Designated Contracts within the meaning of §§ 365(b)(1)(c), 365(b)(3) (to the extent applicable) and 365(f)(2)(B). For the avoidance of doubt, the Debtors shall be liable for the payment of all cure costs with respect to the Designated Contracts as may be required under § 365(b)(1). SCC shall not be liable for the payment of any cure costs with respect to the Designated Contracts as may be required under § 365(b)(1) or for the payment of any liabilities or obligations arising from or related to (a) such Designated Contracts on or prior to the Closing of the Transaction, (b) any executory contracts which the Debtors intend to reject by appropriate motion at a later date and which are not being assumed and assigned to SCC as part of the Transaction, (c) any prepetition multiparty contract affecting more than one Debtor in addition to OCH and/or SLRH, or (d) any collective bargaining agreement, pension plan, or health and welfare plan providing collectively bargained benefits to which OCH and/or SLRH is a party or sponsor.

18. The Debtors intend to reject, pursuant to § 365(a), all executory contracts to which OCH and SLRH are a party, excluding (i) Designated Contracts, (ii) any prepetition multiparty contract affecting more than one Debtor in addition to OCH and/or SLRH, and (iii) any collective bargaining agreement, pension plan or health and welfare plan providing collectively bargained benefits to which OCH and/or SLRH is a party or sponsor. The Debtors shall file an appropriate motion to reject such contracts prior to Closing. Notwithstanding the prior statement, Closing is conditioned upon the rejection, termination and/or modification of all applicable CBAs

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related to OCH and SLRH, pursuant to § 1113 or as otherwise agreed to between the Debtors, the respective unions, and as approved by the Court.

19. All of the Contract Counter-Parties are forever barred, estopped, and permanently enjoined from (i) raising or asserting against the Debtors or SCC, or any of their property, any assignment fee, acceleration, default, breach, or claim of pecuniary loss, or condition to assignment, arising under or related to the Designated Contracts, existing as of the Closing, or arising by reason of the consummation of the Transaction contemplated by the APA, including, without limitation, the Transaction and the assumption and assignment of the Designated Contracts, including any asserted breach relating to or arising out of the change-in-control provisions in such Designated Contracts, or any purported written or oral modification to the Designated Contracts and (ii) asserting against SCC any claim, counterclaim, breach, or condition asserted or assertable against the Debtors existing as of the Closing or arising by reason of the transfer of the Purchased Assets, except for the Assumed Obligations.

20. Any provisions in any Designated Contracts that prohibit or condition the assignment of such Designated Contract or allow the counterparty to such Designated Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Designated Contract constitute unenforceable anti-assignment provisions that are void and of no force and effect with respect to the Debtors' assumption and assignment of such Designated Contract to SCC in accordance with the APA, pursuant to § 363(f). Notwithstanding the foregoing, the rights of Contract Counter-Parties to assert that a Designated Contract may not be assumed and assigned absent consent, on the ground that such Designated Contract pertains to the licensing of intellectual property, are preserved, and any such objections may be asserted in accordance with the procedures set forth in paragraphs 34, 35, and 36; provided, however, that any Contract Counter-Party that has failed to object within the deadlines set forth in the applicable Cure Notice is now forever barred from asserting its objection.

21. The terms and provisions of this Sale Order, as well as the rights granted under the Transaction Documents, shall continue in full force and effect and are binding upon any successor,

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reorganized Debtors, or chapter 7 or chapter 11 trustee applicable to the Debtors, notwithstanding any such conversion, dismissal or order entry. Nothing contained in any chapter 11 plan confirmed in the Debtors' cases or in any order confirming such a plan, nor any order dismissing the cases or converting the cases to a case under chapter 7, shall conflict with or derogate from the provisions of the APA, any documents or instruments executed in connection therewith, or the terms of this Sale Order, provided however, that in the event of a conflict between this Sale Order and an express or implied provision of the APA, this Sale Order shall govern. The provisions of this Sale Order and any actions taken pursuant hereto shall survive any conversion or dismissal of the cases and the entry of any other order that may be entered in the cases, including any order (i) confirming any plan of reorganization; (ii) converting the cases from chapter 11 to chapter 7; (iii) appointing a trustee or examiner in the cases; or (iv) dismissing the cases.

22. The Transaction contemplated by the APA and other Transaction Documents are undertaken without collusion and in "good faith," as that term is defined in § 363(m) of the Bankruptcy Code. SCC is a good faith purchaser within the meaning of § 363(m) and, as such, is entitled to the full protections of § 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein by this Sale Order to consummate the Transaction shall not affect the validity of the sale of the Purchased Assets to SCC. The APA and the Transactions contemplated thereby cannot be avoided under § 363(n).

23. The failure to specifically include any particular provision of the APA or the other Transaction Documents in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Bankruptcy Court that the Transaction, the APA and the other Transaction Documents be authorized and approved in their entirety. Likewise, all of the provisions of this Sale Order are non-severable and mutually dependent.

24. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Rules 6004(h), 6006(d), 7062, or 9014, if applicable, or any other LBR or otherwise, this Sale Order shall not be stayed for 14-days after the entry hereof, but shall be effective

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and enforceable immediately upon entry pursuant to Rule 6004(h) and 6006(d). Time is of the essence in approving the Transaction (including the transfer and the sale of the Purchased Assets).

25. The automatic stay in effect pursuant to § 362 is hereby lifted with respect to the Debtors to the extent necessary, without further order of this Court, to (i) allow SCC to deliver any notice provided for in the APA and Transaction Documents and (ii) allow SCC to take any and all actions permitted under the APA and Transaction Documents in accordance with the terms and conditions thereof.

26. Unless otherwise provided in this Sale Order, to the extent any inconsistency exists between the provisions of the APA and this Sale Order, the provisions contained in this Sale Order shall govern.

27. This Court shall retain exclusive jurisdiction to interpret, construe, and enforce the provisions of the APA and this Sale Order in all respects, and further, including, without limitation, to (i) hear and determine all disputes between the Debtors and/or SCC, as the case may be, and any other non-Debtor party to, among other things, the Designated Contracts concerning, among other things, assignment thereof by the Debtors to SCC and any dispute between SCC and the Debtors as to their respective obligations with respect to any asset, liability, or claim arising hereunder; (ii) compel delivery of the Purchased Assets to SCC free and clear of Encumbrances; (iii) compel the delivery of the Purchase Price or performance of other obligations owed to the Debtors; (iv) interpret, implement, and enforce the provisions of this Sale Order; and (v) protect SCC against (A) claims made related to any of the Excluded Liabilities (as defined in the APA), (B) any claims of successor or vicarious liability (or similar claims or theories) related to the Purchased Assets or the Designated Contracts, or (C) any Encumbrances asserted on or against SCC or the Purchased Assets.

28. Following the date of entry of this Sale Order, the Debtors and SCC are authorized to make changes to the APA without the need for any further order of the Court provided that all such changes have been approved in writing by the Debtors, SCC, the Committee, the DIP Agent, and Prepetition Secured Creditors. Any other changes to the APA or this Sale Order require a further order of the Court, after reasonable notice under the circumstances and a hearing.

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29. Notwithstanding any other provision of this Sale Order or any other Order of this Court, no sale, transfer or assignment of any rights and interests of a regulated entity in any federal license or authorization issued by the FCC shall take place prior to the issuance of FCC regulatory approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules and regulations promulgated thereunder. The FCC's rights and powers to take any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales, transfers and assignments and setting any regulatory fines or forfeitures, are fully preserved, and nothing herein shall proscribe or constrain the FCC's exercise of such power or authority to the extent not inconsistent with the applicable provisions of the Bankruptcy Code.

30. To the extent the Purchased Assets contain records of the Verity Health System Retirement Plan A and Verity Health System Retirement Plan B (collectively, the "Pension Plans") or employment records of participants of the Pension Plans, the SCC shall store, and preserve any such records until the PBGC has completed its investigation regarding the Pension Plans and shall make such documents available to the PBGC for inspection and copying. Such records include, but are not limited to, any Pension Plan governing documents, actuarial documents, and employment records (collectively, the "Pension Plan Documents"). The Debtors shall retain and not abandon any Pension Plan Documents that are not Purchased Assets for not less than twelve (12) months after Closing and shall make such documents available to the PBGC for inspection and copying.

31. No later than January 18, 2019, either (i) the Debtors will file a notice of a resolution of the issues regarding the transfer and/or proposed assumption and assignment or rejection of the Medi-Cal Provider Agreements or (b) DHCS will file a supplemental objection to the proposed transfer of the Medi-Cal Provider Agreements. If necessary, the Debtors will file any reply to the supplemental objection no later than 4:00 p.m. (Pacific Time), on January 25, 2019, and a hearing will be held on the issues raised regarding the transfer and/or proposed assumption and assignment or rejection of the Medi-Cal Provider Agreements on January 30, 2019, at 10:00 a.m. (Pacific Time); and all parties' rights, claims, and defenses are preserved until that hearing. Nothing in this Sale Order shall apply to

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Medi-Cal Provider Agreements until and unless there is a Court order approving a settlement between the Debtors and the DHCS or a Court order resolving the DHCS's objections.

32. No later than January 18, 2019, either (i) the Debtors will file a notice of a resolution of the issues regarding the transfer and/or proposed assumption and assignment or rejection of the Medicare Provider Agreements or (b) HHS will file a supplemental objection to the proposed transfer of the Medicare Provider Agreements. If necessary, the Debtors will file any reply to the supplemental objection no later than 4:00 p.m. (Pacific Time), on January 25, 2019, and a hearing will be held on the issues raised regarding the transfer and/or proposed assumption and assignment or rejection of the Medicare Provider Agreements on January 30, 2019, at 10:00 a.m. (Pacific Time); and all parties' rights, claims, and defenses are preserved until that hearing. Nothing in this Sale Order shall apply to Medicare Provider Agreements until and unless there is a Court order approving a settlement between the Debtors and the HHS or a Court order resolving the HHS's objections.

33. The Debtors must have resolution of the collective bargaining agreements (the "CBAs") that cover employees at Saint Louise Regional Hospital and O'Connor Hospital prior to SCC closing on the proposed Sale pursuant to the APA. The hearing on the Debtors' motion(s) with respect to the rejection and/or modification of such CBAs (the "CBA Motions") will occur on January 30, 2019, at 10:00 a.m. (Pacific Time). Debtors shall file the CBA Motions by no later than January 2, 2019. Any objection to the CBA Motions shall be filed on January 16, 2019, and any reply shall be filed on January 23, 2019.

34. A continued hearing on the Cure Objections shall be held on January 30, 2019, at 10:00 a.m. (Pacific Time). As to the Currently Identified Designated Contracts, by no later than Friday, January 18, 2019, the Debtors shall file a notice containing a list of (a) the Cure Objections that have been resolved, and (b) the Cure Objections as to which Court intervention is required. As to the Cure Objections for which Court intervention is required, the following briefing schedule shall apply: ~~(2)~~ (1) the Debtors' opposition to each outstanding Cure Objection shall be submitted by no later than Friday, January 18, 2019; and ~~(3)~~ (2) the counterparties' reply in support of its Cure Objections shall be submitted by no later than Friday, January 25, 2019. Nothing in this Sale Order constitutes a finding or

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determination on any Cure Objection. All Cure Objections are preserved until resolved either by agreement between the Debtors and the contract counterparty or further order of the Court.

35. As to any executory contracts or unexpired leases that were listed on the Initial Designated Contract List, but not listed on any prior Cure Notices, any counterparty thereto may file an objection to the cure amount or assumption thereof by January 11, 2019, and all other provisions in paragraph 34 shall apply to resolution thereof.

36. As to Subsequently Identified Designated Contracts, (i) the Debtors shall file a notice with the Court, by January 23, 2019, identifying all Subsequently Identified Designated Contracts and provide service thereof in accordance with paragraph 16, and (ii) to the extent that any Subsequently Identified Designated Contracts were not listed on any of the prior Cure Notices, counterparties subject to contracts who object to assumption and/or the proposed cure amounts must file an objection no later than January 30, 2019, and any reply shall be filed on February 6, 2019. The request by Medical Office Building of California LLC for an extension of the January 30, 2019 objection deadline in the event that its lease is designated as a Subsequently Identified Designated Contract is overruled. To the extent that a negotiated resolution cannot be achieved, any objections filed in connection with the Subsequently Identified Designated Contracts shall be adjudicated on February 13, 2018, at 10:00 a.m. (Pacific Time), where the Court shall resolve any and all disputed issues related to the objection.

37. The Committee's and the Prepetition Secured Creditors' rights, and their ability to participate and be heard at the hearings described in paragraphs 31-36 of this Sale Order, are hereby reserved. To the extent that the DIP Agent, DIP Lender, Prepetition Secured Creditors or the Committee desire to file pleadings related to such hearings, their respective times for filing an objection or response to any of the requests for relief described in paragraphs 31-36 herein shall be the same as granted to the Debtors pursuant to the notice in each such instance.

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IT IS SO ORDERED.

###

Date: December 27, 2018

Ernest M. Robles
United States Bankruptcy Judge

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Exhibit E
Santa Clara Sale Appeal
Stipulated Order Dismissing Santa Clara Sale Appeal

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Attorneys for Debtors, Appellees
Verity Health System of California, Inc., et al.

JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION - LOS ANGELES

In re: Verity Health System Of California, Inc., et al.,[1] Debtors and Debtors In Possession.	District Court Case No.: 2:19-cv-00133-RGK Bankruptcy Court Lead Case No.: 2:18-bk-20151-ER Hon. R. Gary Klausner **ORDER GRANTING STIPULATION FOR ENTRY OF AN ORDER TO DISMISS APPEAL**
Xavier Becerra Attorney General of California, Appellant. v. Verity Health System of California, Inc., et al. Appellee.	

[1] The other Debtors in the chapter 11 cases, being jointly administered under Lead Case No. 2:18-bk-20151-ER, are O'Connor Hospital 2:18-bk-20168-ER, Saint Louise Regional Hospital 2:18-bk-20162-ER, St. Francis Medical Center 2:18-cv-20165-ER, St. Vincent Medical Center 2:18-bk-20164-ER, Seton Medical Center 2:18-cv-20167-ER, O'Connor Hospital Foundation 2:18-bk-20179-ER, Saint Louise Regional Hospital Foundation 2:18-cv-20172-ER, St. Francis Medical Center of Lynwood Foundation 2:18-cv-20178-ER, St. Vincent Foundation 2:18-cv-20180-ER, St. Vincent Dialysis Center, Inc. 2:18-cv-20171-ER, Seton Medical Center Foundation 12:8-cv-20175-ER, Verity Business Services 2:18-cv-20173-ER, Verity Medical Foundation 2:18-cv-20169-ER, Verity Holdings, LLC 2:18-cv-20163-ER, DePaul Ventures, LLC 2:18-cv-20176-ER, and DePaul Ventures - San Jose Dialysis, LLC 2:18-cv-20181-ER.

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The *Stipulation for Entry of an Order to Dismiss Appeal* (the "Stipulation") [Docket No. 40] as entered between appellee Verity Health System Of California, Inc. and the above-referenced affiliated debtors, debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (collectively, the "Debtors"), and appellant the Attorney General of California (the "AG") came for consideration before the Court.

The Court, having reviewed the Stipulation, the attached Declartion of John A. Moe, II, in support thereof, and good and sufficient cause having been shown,

IT IS HEREBY ORDERED:

1. The STIPULATION is APPROVED and GRANTED;

2. The Appeal is DISMISSED; and

3. The Parties shall each bear their own costs, fees and expenses in relation to this Appeal.

IT IS SO ORDERED.

Dated: April 03, 2019

Honorable R. Gary Klausner
U.S. District Judge

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Exhibit F
Enforcement Order Appeal
Notice of Appeal and Statement of Election

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address GARY E. KLAUSNER (SBN 69055) LEVENE, NEALE, BENDER, YOO & BRILL L.L.P. 10250 Constellation Boulevard, Suite 1700 Los Angeles, CA 90067 Telephone: (310) 229-1234 Facsimile: (310) 229-1244 EmailL gek@lnbyb.com ☐ *Individual appearing without attorney* ☒ *Attorney for:* Strategic Global Management, Inc.	FOR COURT USE ONLY FILED CLERK, U.S. DISTRICT COURT DEC - 6 2019 CENTRAL DISTRICT OF CALIFORNIA BY: RS DEPUTY 2:19-CV-10352-DSF
UNITED STATES BANKRUPTCY COURT **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**	
In re: Verity Health System of California, Inc., et al., Debtor(s).	CASE NO.:2:18-bk-20151-ER ADVERSARY NO.: (*if applicable*) CHAPTER: 11
Plaintiff(s) (*if applicable*). vs. Defendant(s) (*if applicable*).	**NOTICE OF APPEAL AND STATEMENT OF ELECTION**

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Strategic Global Management, Inc.

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff
☐ Defendant
☒ Other (*describe*):

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor
☐ Creditor
☐ Trustee
☒ Other (*describe*): Party in Interest and proposed buyer in Section 363 sale

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:
   Order Granting "Debtors' Emergency Motion for the Entry of an Order: (I) Enforcing the Order Authorizing the Sale to Strategic Global Management, Inc.; (II) Finding that the Sale Is Free and Clear of Conditions Materially Different than Those Approved by the Court; (III) Finding that..." [Dkt. No. 3611]
2. The date the judgment, order, or decree was entered: 11/14/2019
   See Exhibit A attached hereto.

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: Verity Health System of California, Inc.

   Attorney:

   Samuel R. Maizel; Tania M. Moyron; and Nicholas A Koffroth
   Dentons US LLP
   601 South Figueroa Street, Suite 2500
   Los Angeles, CA 90017
   Tel: 213-623-9300

2. Party: California Department of Health Care Services

   Attorney:

   Xavier Becerra; Jennifer M. Kim; Kenneth K. Wang
   Attorney General of California
   300 South Spring Street, Suite 1702
   Los Angeles, CA 90013
   Tel: 213-897-2805

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

/s/ Gary E. Klausner Date: 11/29/2019
Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

EXHIBIT A

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Attorneys for the Chapter 11 Debtors and Debtors In Possession

FILED & ENTERED

NOV 14 2019

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re

VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,

Debtor and Debtor In Possession.

☒ Affects All Debtors

☐ Affects Verity Health System of California, Inc.
☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☐ Affects St. Francis Medical Center
☐ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

Jointly Administered With:
Case No. 2:18-bk-20162-ER
Case No. 2:18-bk-20163-ER
Case No. 2:18-bk-20164-ER
Case No. 2:18-bk-20165-ER
Case No. 2:18-bk-20167-ER
Case No. 2:18-bk-20168-ER
Case No. 2:18-bk-20169-ER
Case No. 2:18-bk-20171-ER
Case No. 2:18-bk-20172-ER
Case No. 2:18-bk-20173-ER
Case No. 2:18-bk-20175-ER
Case No. 2:18-bk-20176-ER
Case No. 2:18-bk-20178-ER
Case No. 2:18-bk-20179-ER
Case No. 2:18-bk-20180-ER
Case No. 2:18-bk-20181-ER

Chapter 11 Cases
Hon. Judge Ernest M. Robles

ORDER GRANTING "DEBTORS' EMERGENCY MOTION FOR THE ENTRY OF AN ORDER: (I) ENFORCING THE ORDER AUTHORIZING THE SALE TO STRATEGIC GLOBAL MANAGEMENT, INC.; (II) FINDING THAT THE SALE IS FREE AND CLEAR OF CONDITIONS MATERIALLY DIFFERENT THAN THOSE APPROVED BY THE COURT; (III) FINDING THAT THE ATTORNEY GENERAL ABUSED HIS DISCRETION IN IMPOSING CONDITIONS ON THAT SALE; AND (IV) GRANTING RELATED RELIEF" [DOC. 3188]

Hearing Date and Time:
Date: October 15, 2019
Time: 10:00 a.m. (Pacific Time)
Location: Courtroom 1568
255 E. Temple Street
Los Angeles, CA

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(213) 623-9300

1820151191114000000000009

The Court, having considered the motion [Docket No. 3188] (the "Motion")[1] filed by Verity Health System of California, Inc. and the above-referenced affiliated debtors and debtors in possession in the above captioned chapter 11 bankruptcy cases (collectively, the "Debtors"), the response [Docket No. 3333] of the California Attorney General (the "Attorney General"), the statement [Docket No. 3356] filed by Strategic Global Management, Inc. (collectively with its affiliates, "SGM"), the reply [Docket No. 3382] filed by the Debtors, the stipulation [Docket No. 3572] by and among the Debtors and the Attorney General, and good cause appearing,

HEREBY ORDERS AS FOLLOWS:

1. The Motion is GRANTED.

2. The Court's memorandum decision [Docket No. 3446] is hereby vacated and withdrawn.

3. Solely and exclusively for purposes of the APA (as defined below) and the Motion, the Additional Conditions (as defined in section 8.6 of that certain asset purchase agreement [Docket No. 2305-1] (the "APA")) are an "interest in property" for purposes of 11 U.S.C. § 363(f). The Assets (as defined in the APA) are being sold free and clear of the Additional Conditions without the imposition of any other conditions which would adversely affect the Purchaser (as defined in the APA).

4. This Court shall retain exclusive jurisdiction to adjudicate any disputes or controversies regarding the interpretation or enforcement of this Order. Notwithstanding the preceding sentence, nothing contained in this Order shall prohibit or limit the authority of the Attorney General to enforce, in the California state courts and pursuant to section 5926 of the California Corporations Code, the Purchaser Approved Conditions set forth on Schedule 8.6 to the APA.

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/ / /

[1] Unless otherwise defined herein, all capitalized terms have the definitions set forth in the Motion.

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5. The Attorney General waives any right to appeal this Order.

IT IS SO ORDERED.

###

Date: November 14, 2019

Ernest M. Robles
United States Bankruptcy Judge

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled: **NOTICE OF APPEAL AND STATEMENT OF ELECTION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **November 29, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Alexandra Achamallah aachamallah@milbank.com, rliubicic@milbank.com
- Melinda Alonzo ml7829@att.com
- Robert N Amkraut ramkraut@foxrothschild.com
- Kyra E Andrassy kandrassy@swelawfirm.com, lgarrett@swelawfirm.com;gcruz@swelawfirm.com;jchung@swelawfirm.com
- Simon Aron saron@wrslawyers.com
- Lauren T Attard lattard@bakerlaw.com, agrosso@bakerlaw.com
- Allison R Axenrod allison@claimsrecoveryllc.com
- Keith Patrick Banner kbanner@greenbergglusker.com, sharper@greenbergglusker.com;calendar@greenbergglusker.com
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- Ron Bender rb@lnbyb.com
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- Steven M Berman sberman@slk-law.com
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- Karl E Block kblock@loeb.com, jvazquez@loeb.com;ladocket@loeb.com;kblock@ecf.courtdrive.com
- Dustin P Branch branchd@ballardspahr.com, carolod@ballardspahr.com;hubenb@ballardspahr.com
- Michael D Breslauer mbreslauer@swsslaw.com, wyones@swsslaw.com;mbreslauer@ecf.courtdrive.com;wyones@ecf.courtdrive.com
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Case 2:18-bk-20151-ER Doc 2726 Filed 11/20/19 Entered 11/20/19 10:33:52 Desc

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2. SERVED BY UNITED STATES MAIL: On December 2, 2019 served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows.

The Honorable Ernest M. Robles
United States Bankruptcy Court
255 E. Temple Street, Suite 1560
Los Angeles, CA 90012

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **November 29, 2019**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 29, 2019	Jeffrey Kwong	*/s/ Jeffrey Kwong*
Date	*Type Name*	*Signature*

Exhibit G
Enforcement Order Appeal
Notice of Transfer of Appeal to District Court

U.S. Bankruptcy Appellate Panel of the Ninth Circuit

125 South Grand Avenue, Pasadena, California 91105
(626) 229-7220

FILED
CLERK, U.S. DISTRICT COURT
DEC - 6 2019
CENTRAL DISTRICT OF CALIFORNIA
BY: RS DEPUTY

In Re: VERITY HEALTH SYSTEM OF CALIFORNIA, INC., ET AL.

BAP No.: CC-19-1310

Bk. Ct. No.: 2:18-bk-20151

ADV. NO.:

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to Los Angeles.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Susan M Spraul, BAP Clerk

By: Cecil Lizandro Silva, Deputy Clerk
Date: December 4, 2019

Please acknowledge receipt of the case file listed above.
Dated: 12-06-2019

Signed: R. Smith
District Court Deputy

Assigned District Court No.

2:19-CV-10352-DSF

cc: Bankruptcy Court
All Parties

Exhibit H
Section 8.6 Order Appeal
Notice of Appeal and Statement of Election

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address GARY E. KLAUSNER (SBN 69055) LEVENE, NEALE, BENDER, YOO & BRILL L.L.P. 10250 Constellation Boulevard, Suite 1700 Los Angeles, CA 90067 Telephone: (310) 229-1234 Facsimile: (310) 229-1244 Email: gek@lnbyb.com ☐ *Individual appearing without attorney* ☒ *Attorney for:* Strategic Global Management, Inc.	FOR COURT USE ONLY FILED CLERK, U.S. DISTRICT COURT DEC - 6 2019 CENTRAL DISTRICT OF CALIFORNIA BY: RS DEPUTY 2:19-CV-10354-CAS

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re: Verity Health System of California, Inc., et al., Debtor(s).	CASE NO.:2:18-bk-20151-ER ADVERSARY NO.: (*if applicable*) CHAPTER: 11
Plaintiff(s) (*if applicable*). vs. Defendant(s) (*if applicable*).	**NOTICE OF APPEAL AND STATEMENT OF ELECTION**

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Strategic Global Management, Inc.

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff
☐ Defendant
☒ Other (*describe*):

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor
☐ Creditor
☐ Trustee
☒ Other (*describe*): Party in Interest and proposed buyer in Section 363 sale

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:
   Order (1) Finding that SGM Is Obligated to Promptly Close the SGM Sale Under Sec. 8.6 of the APA, Provided that All Other Conditions to Closing Have Been Satisfied and (2) Granting Debtors' Motion for a Continuance of the Hearing to Approve the Disclosure Statement [Dkt. 3633]
2. The date the judgment, order, or decree was entered: 11/18/2019

See Exhibit A attached hereto.

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: Verity Health System of California, Inc.

   Attorney:

   Samuel R. Maizel; Tania M. Moyron; and Nicholas A. Koffroth
   Dentons US LLP
   601 South Figueroa Street, Suite 2500
   Los Angeles, CA 90017
   Tel: 213-623-9300

2. Party: California Department of Health Care Services

   Attorney:

   Xavier Becerra; Jennifer M. Kim; Kenneth K. Wang
   Attorney General of California
   300 South Spring Street, Suite 1702
   Los Angeles, CA 90013
   Tel: 213-897-2805

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

/s/ Gary E. Klausner Date: 11/29/2019
Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

EXHIBIT A

FILED & ENTERED

NOV 18 2019

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY llewis DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re: Verity Health System of California, Inc., *et al.*,

Debtors and Debtors in Possession.

☒Affects All Debtors

☐ Affects Verity Health System of California, Inc.
☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☐ Affects St. Francis Medical Center
☐ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Medical Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors in Possession.,

Lead Case No.: 2:18-bk-20151-ER
Chapter: 11

Jointly Administered With:
Case No. 2:18-bk-20162-ER;
Case No. 2:18-bk-20163-ER;
Case No. 2:18-bk-20164-ER;
Case No. 2:18-bk-20165-ER;
Case No. 2:18-bk-20167-ER;
Case No. 2:18-bk-20168-ER;
Case No. 2:18-bk-20169-ER;
Case No. 2:18-bk-20171-ER;
Case No. 2:18-bk-20172-ER;
Case No. 2:18-bk-20173-ER;
Case No. 2:18-bk-20175-ER;
Case No. 2:18-bk-20176-ER;
Case No. 2:18-bk-20178-ER;
Case No. 2:18-bk-20179-ER;
Case No. 2:18-bk-20180-ER;
Case No. 2:18-bk-20181-ER;

Chapter 11 Cases.

ORDER (1) FINDING THAT SGM IS OBLIGATED TO PROMPTLY CLOSE THE SGM SALE UNDER § 8.6 OF THE APA, PROVIDED THAT ALL OTHER CONDITIONS TO CLOSING HAVE BEEN SATISFIED AND (2) GRANTING DEBTORS' MOTION FOR A CONTINUANCE OF THE HEARING TO APPROVE THE DISCLOSURE STATEMENT

CONTINUED HEARING TO APPROVE DISCLOSURE STATEMENT:

Date: November 26, 2019

Time: 10:00 a.m.

Location: Ctrm. 1568
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

1820151191118000000000014

For the reasons set forth in the concurrently-issued *Memorandum of Decision (1) Finding that SGM is Obligated to Promptly Close the SGM Sale Under § 8.6 of the APA, Provided that All Other Conditions to Closing Have Been Satisfied and (2) Granting Debtors' Motion for a Continuance of the Hearing to Approve the Disclosure Statement* (the "Memorandum of Decision"), the Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

1) The Debtors have complied with their obligation under the APA[1] to obtain a final, non-appealable Supplemental Sale Order. Consequently, SGM is now obligated to promptly close the SGM Sale, provided that all other conditions to closing have been satisfied.
2) The hearing on the Disclosure Statement Motion is **CONTINUED** from November 20, 2019, at 10:00 a.m. to **November 26, 2019, at 10:00 a.m.** The Debtors' Reply in support of the Disclosure Statement Motion shall be filed by no later than **November 21, 2019**.

IT IS SO ORDERED.

###

Date: November 18, 2019

Ernest M. Robles
United States Bankruptcy Judge

[1] Capitalized terms not defined herein have the meaning set forth in the Memorandum of Decision.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled: **NOTICE OF APPEAL AND STATEMENT OF ELECTION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **November 29, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

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2. SERVED BY UNITED STATES MAIL: On December 2, 2019 served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows.

The Honorable Ernest M. Robles
United States Bankruptcy Court
255 E. Temple Street, Suite 1560
Los Angeles, CA 90012

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **November 29, 2019**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 29, 2019	Jeffrey Kwong	*/s/ Jeffrey Kwong*
Date	*Type Name*	*Signature*

Exhibit I
Section 8.6 Order Appeal
Notice of Transfer of Appeal to District Court

U.S. Bankruptcy Appellate Panel of the Ninth Circuit

125 South Grand Avenue, Pasadena, California 91105
(626) 229-7220

FILED
CLERK, U.S. DISTRICT COURT
DEC -6 2019
CENTRAL DISTRICT OF CALIFORNIA
BY: RS DEPUTY

In Re: VERITY HEALTH SYSTEM OF CALIFORNIA, INC., ET AL.

BAP No.: CC-19-1311

Bk. Ct. No.: 2:18-bk-20151-ER

ADV. NO.:

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to Los Angeles.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Susan M Spraul, BAP Clerk

By: Cecil Lizandro Silva, Deputy Clerk
Date: December 4, 2019

Please acknowledge receipt of the case file listed above.
Dated: 12-06-2019

Signed: R. Smith
District Court Deputy

Assigned District Court No.

2:19-CV-10354-CAS

cc: Bankruptcy Court
All Parties

Exhibit J
Closing Order Appeal
Notice of Appeal and Statement of Election

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

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FOR COURT USE ONLY

2:19-CV-10356-ODW

FILED
CLERK, U.S. DISTRICT COURT
DEC - 6 2019
CENTRAL DISTRICT OF CALIFORNIA
BY: RS DEPUTY

☐ *Individual appearing without attorney*
☒ *Attorney for:* Strategic Global Management, Inc.

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re:

Verity Health System of California, Inc., et al.,

Debtor(s).

CASE NO.:2:18-bk-20151-ER

ADVERSARY NO.:
(*if applicable*)

CHAPTER: 11

Plaintiff(s) (*if applicable*).

vs.

Defendant(s) (*if applicable*).

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Strategic Global Management, Inc

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff
☐ Defendant
☒ Other (*describe*):

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor
☐ Creditor
☐ Trustee
☒ Other (*describe*): Party in Interest and proposed buyer in Section 363 sale

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:
   Order (1) Finding that SGM Is Obligated to Close the SGM Sale by No Later Than December 5, 2019 and (2) Setting Continued Hearing on Debtors' Motion for Approval of Disclosure Statement [Dkt. 3724]

2. The date the judgment, order, or decree was entered: 11/27/2019
   See Exhibit A attached hereto.

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: Verity Health System of California, Inc.

   Attorney:

   Samuel R. Maizel; Tania M. Moyron; and Nicholos A. Kiffroth
   Dentons US LLP
   601 South Figueroa Street, Suite 2500
   Los Angeles, CA 90017
   Tel: 213-623-9300

2. Party:

   Attorney:

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

/s/ Gary E. Klausner Date: 12/03/2019
Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

EXHIBIT A

FILED & ENTERED

NOV 27 2019

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY llewis DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re: Verity Health System of California, Inc., *et al.*, Debtors and Debtors in Possession. ☒Affects All Debtors ☐ Affects Verity Health System of California, Inc. ☐ Affects O'Connor Hospital ☐ Affects Saint Louise Regional Hospital ☐ Affects St. Francis Medical Center ☐ Affects St. Vincent Medical Center ☐ Affects Seton Medical Center ☐ Affects O'Connor Hospital Foundation ☐ Affects Saint Louise Regional Hospital Foundation ☐ Affects St. Francis Medical Center of Lynwood Medical Foundation ☐ Affects St. Vincent Foundation ☐ Affects St. Vincent Dialysis Center, Inc. ☐ Affects Seton Medical Center Foundation ☐ Affects Verity Business Services ☐ Affects Verity Medical Foundation ☐ Affects Verity Holdings, LLC ☐ Affects De Paul Ventures, LLC ☐ Affects De Paul Ventures - San Jose Dialysis, LLC Debtors and Debtors in Possession.,	Lead Case No.: 2:18-bk-20151-ER Chapter: 11 Jointly Administered With: Case No. 2:18-bk-20162-ER; Case No. 2:18-bk-20163-ER; Case No. 2:18-bk-20164-ER; Case No. 2:18-bk-20165-ER; Case No. 2:18-bk-20167-ER; Case No. 2:18-bk-20168-ER; Case No. 2:18-bk-20169-ER; Case No. 2:18-bk-20171-ER; Case No. 2:18-bk-20172-ER; Case No. 2:18-bk-20173-ER; Case No. 2:18-bk-20175-ER; Case No. 2:18-bk-20176-ER; Case No. 2:18-bk-20178-ER; Case No. 2:18-bk-20179-ER; Case No. 2:18-bk-20180-ER; Case No. 2:18-bk-20181-ER; Chapter 11 Cases. **ORDER (1) FINDING THAT SGM IS OBLIGATED TO CLOSE THE SGM SALE BY NO LATER THAN DECEMBER 5, 2019 AND (2) SETTING CONTINUED HEARING ON DEBTORS' MOTION FOR APPROVAL OF DISCLOSURE STATEMENT** Date: November 26, 2019 Time: 10:00 a.m. Location: Ctrm. 1568 Roybal Federal Building 255 East Temple Street Los Angeles, CA 90012

For the reasons set forth in the concurrently-issued *Memorandum of Decision Finding that SGM is Obligated to Close the SGM Sale By No Later than December 5, 2019* (the "Memorandum of Decision"), the Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

1) Pursuant to § 1.3 of the APA,[1] SGM is obligated to close the SGM Sale by no later than December 5, 2019.
2) A continued hearing on the Debtors' motion to approve the adequacy of the Debtors' proposed Disclosure Statement (the "Disclosure Statement Motion") shall take place on **December 12, 2019, at 10:00 a.m.** The Debtors shall file a reply in support of the Disclosure Statement Motion by no later than **December 9, 2019**.

IT IS SO ORDERED.

###

Date: November 27, 2019

Ernest M. Robles
United States Bankruptcy Judge

[1] Capitalized terms not defined herein have the meaning set forth in the Memorandum of Decision.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled **NOTICE OF APPEAL AND STATEMENT OF ELECTIONS** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **December 3, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **December 3, 2019**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **December 3, 2019**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served via Attorney Service
The Honorable Ernest M. Robles
United States Bankruptcy Court
Edward R. Roybal Federal Building
255 E. Temple Street, Suite 1560
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

December 3, 2019	Jason Klassi	*/s/ Jason Klassi*
Date	*Type Name*	*Signature*

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Exhibit K
Closing Order Appeal
Notice of Transfer of Appeal to District Court

U.S. Bankruptcy Appellate Panel of the Ninth Circuit

125 South Grand Avenue, Pasadena, California 91105
(626) 229-7220

FILED
CLERK, U.S. DISTRICT COURT
DEC - 6 2019
CENTRAL DISTRICT OF CALIFORNIA
BY: RS DEPUTY

In Re: VERITY HEALTH SYSTEM OF CALIFORNIA, INC., ET AL.

BAP No.: CC-19-1320

Bk. Ct. No.: 2:18-bk-20151

ADV. NO.:

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to Los Angeles.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Susan M Spraul, BAP Clerk

By: Cecil Lizandro Silva, Deputy Clerk
Date: December 4, 2019

Please acknowledge receipt of the case file listed above.
Dated: 12-06-2019

Signed: R. Smith
District Court Deputy

Assigned District Court No.

2:19-CV-10356-ODW

cc: Bankruptcy Court
All Parties