



# South Peninsula Hospital Operating Agreement Overview of 2019 Changes

**Kenai Peninsula Borough Mayor Charlie Pierce**

# Borough negotiation team and goals

## **Negotiation Team Members**

- Charlie Pierce
- James Baisden
- Colette Thompson
- Brandi Harbaugh
- Kim Saner
- John Hedges

## **Goals**

- Improve communication between the hospital and KPB
- Identify areas where increased flexibility for hospital is needed
- Identify areas where increased reporting and avenues for KPB input are needed
- Identify and fix any legal issues or out of date elements of the contract, including bond financing concerns

# Top four changes in the 2019 agreement

## New Reporting and Communication Requirements

The new contract establishes additional communication requirements including annual reports detailing the status of assets, upcoming projects, changes to purchasing procedures, and copies of leases. See the table on pages 4 and 5 for the details of the new communication and reporting requirements.

## New Approval Requirements for Purchases and Projects

Instead of a single dollar figure for all spending, the new agreement has separate thresholds and requirements for capital projects, maintenance projects, and equipment purchasing. Detail provided in the table on page 6.

## Title Changed to Operating Agreement

Changed from Sublease and Operating Agreement to Operating Agreement.

## Term Length Changed

The term length was increased from six to ten years; however, the automatic renewal if no notice of termination is given was reduced from six to five years.

## Other significant elements

- Bond financing and safe harbor language added
- Purchasing procedure notice requirements modified
- New section outlining real property acquisitions and leases
- New section outlining approval process for subleases
- Finances section was modified to clarify approval is needed for any use of the plant replacement and expansion fund (PREF)
- New defense and indemnification clause
- Level of services and other business activities modified

# New reporting requirements

	Description	What is included on list	Change from 2014
<b>Annual Hospital Assets Schedule Par. 10.b</b>	Annually updated breakdown of important capital infrastructure assets and major moveable equipment	Assets, location, remaining useful life	*New*
<b>Annual Projects List Par. 10.c</b>	Annual list of reportable maintenance projects, equipment purchases, and capital improvements for the upcoming year	Project description, schedule, estimated cost, location	*New*
<b>Annual Property Lease List Par. 10.d</b>	All real property leases regardless of term length or cost  All other operating and capital leases with terms greater than 1 year	Leased property, lessor/lessee, term, and cost.  Copies of leases upon request	*New*
<b>Risk Management Report Para.10.f</b>	Annual reports describing Risk Management Program	Total costs and numbers of workers' compensation claims filed in prior year, list of safety-related training classes and other efforts taken	*New*
<b>Annual Purchasing Policy List Par.10.e</b>	Annual list of policies related to purchasing	List and copies of all policies that have been updated in the past year	*New*
<b>Quarterly Activity Report Par.6.b</b>	Activity report, written and presented to assembly	Financial report plus statement of activities, issues and events	Unchanged
<b>Updated CEO Contract Par.18.d</b>	CEO contract	Full copy of contract	Unchanged
<b>Executive Incentive plan Par 18.e</b>	Incentive plan for all "key employees" (IRS definition)	Full copies of plans upon request	*New*
<b>Form 990 Par.6</b>	IRS Form 990 Information – reporting not needed when the form is publicly available, but may be needed in the event SPHI is no longer required to complete the form	Info previously available on the 990 as required by KPB	

# Thresholds for borough approval

Item	Reporting	Contract Admin	Assembly	Other KPB Involvement
<b>Maintenance and Repair Par. 11</b>	Notify before all major maintenance and minor maintenance exceeding \$100,000  Annual list & notify in writing before starting work	Major maintenance & minor maintenance exceeding \$100,000 that was not included on the annual list	N/A	KPB reserves right to manage any major maintenance projects.  KPB can require submittals for approval of components, equipment and material for major maintenance projects.  KPB can require major maintenance is done
<b>Major Moveable Equipment Par. 12</b>	Exceeding \$250,000  Annual list & notify when equipment is purchased	N/A	Exceeding \$500,000 or requiring Certificate of Need	Assembly may approve either during annual budget or on individual basis.
<b>Capital Improvement Projects Par.13</b>	Exceeding \$250,000 or requiring permit from Authority Having Jurisdiction (AHJ)  Annual list, notify at start, periodic updates, notify at completion.	Leasehold improvements over \$100,000  Projects requiring a permit from an AHJ	Exceeding \$1M or if cost \$500K to \$1M unless previously appropriated for that project.	KPB reserves right to manage any capital improvement project, and shall manage any project in excess of \$1M unless contract admin gives authorization to SPHI to manage  Can require submittals for approval on components, equipment, and material for any capital improvement project
<b>Capital Improvement Planning Par. 13.a</b>	Projects expected to cost in excess of \$1M or require authorization by AHJ	Involved in planning for all projects in excess of \$1M	N/A	Borough purchasing and contracting involved in all aspects of planning. SPHI may spend less than \$25K on preliminary conceptual designs, diagram, etc. before notice
<b>Real Property Acquisitions Par 14.a</b>	All real property acquisitions	N/A	All	All real property acquisitions are conducted by KPB unless SPHI is given written authorization to do so
<b>Leases (in which SPHI is the lessee) Par. 14.b</b>	Included in annual list	\$100K or more annual cost (each lease)	Exceeding \$400K annual cumulative cap	Cannot obligate KPB in any way; leases must contain clause stating this
<b>Subleases Par. 15</b>	Notify 7 business days prior for under \$250,000, and 21 days prior for over \$250,000	\$250K or more annually (each lease)	N/A	Requirements for subleases to be at fair market value, in furtherance of purposes of Agreement, within authorized powers of the Service Area
<b>New or expanded services Par. 25.b</b>	Prior notice of all new or expanded services	N/A	Exceeding \$250,000 capital cost, and all joint ventures	All other approval requirements apply to new & expanded services

# FAQS – Term Length

- Why are we proposing ten years?
  - Frequent negotiations have disadvantages
    - Frequent negotiations paired with turnover of mayoral administrations could reduce institutional knowledge on the borough's side in particular
    - With a 6-year term, renegotiating hospital agreements would happen very frequently, potentially leaving little time for new borough administrations to get up to speed, understand the relationship, and prioritize changes
    - Can be significantly time intensive on both ends
  - Shorter term could have potential negative impacts on hospital
    - Need for long term planning and stability
    - Increases difficulty in recruiting qualified professionals needed for hospital operations and provision of services to public.
    - 6-year term could have negative impacts on negotiations for other subleases, contracts, etc. due to the limited ability of SPHI to enter into agreements that extend beyond the length of the agreement with the borough.
    - Sublessees or others contracting with the hospital may not be comfortable signing short term agreements unless the conditions are significantly favorable for them
  - KPB still retains control and ability to address issues
    - Paragraph 37.e. allows the borough contract administrator to request any problem be remedied if they "become dissatisfied with the performance or results of SPHI's operation and maintenance of any of the Medical Facilities or services provided pursuant to the contract." If the Contract Administrator determines the SPHI has failed to take reasonable action to remedy the problem within sixty days, the Borough can terminate the agreement. (Assembly approval is required)