

CITY OF HOBBS

ORDINANCE NO. 1161

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO GROUND LEASE AGREEMENT WITH COVENANT HOSPITAL HOBBS AT 5625 N LOVINGTON HWY.**

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a 6.83 acre tract of land situated in the Hobbs Industrial Air Park;

WHEREAS, the City of Hobbs is currently leasing the property to Covenant Hospital Hobbs;

WHEREAS, Covenant Hospital Hobbs requests to sublease the Property to Amazon.com Services, LLC; and


WHEREAS, unless a referendum election is held, the Ordinance authorizing the First Ground Lease Amendment of this property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

1. TERM OF LEASE. No change to the term of lease, which began December 4, 2006 and the expiration date of such term is December 3, 2081.
2. ESTIMATED VALUE OF PROPERTY. \$446,272.00
3. LEASE PAYMENTS. Covenant Hospital Hobbs will pay annual rental to the City of Hobbs in the amount of \$1,000 for the first year, while building improvements are made, \$44,627.22 for the second year, and thereafter the payment shall increase 3% annually and be paid on December 15<sup>th</sup> of each year.
4. NAME OF LESSEE. Covenant Hospital Hobbs
5. NAME OF SUBLESSEE. Amazon.com Service, LLC
6. PURPOSE OF LEASE. The Lessee will sublease the entire Leasehold Property to Amazon.com Services, LLC for an Amazon warehouse.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is authorized and directed to execute on behalf of the City of Hobbs, a First Amendment to Ground Lease Agreement with Covenant Hospital Hobbs, for proposed Amazon Warehouse at 5625 N Lovington Hwy, Hobbs, New Mexico 88240. A copy of said First Amendment to Ground Lease Agreement is attached hereto and incorporated herein by reference.

PASSED, ADOPTED AND APPROVED this 16<sup>th</sup> day of September, 2024.

  
\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

  
\_\_\_\_\_  
JAN FLETCHER, City Clerk



## FIRST AMENDMENT TO GROUND LEASE

THIS FIRST AMENDMENT TO GROUND LEASE (this “**Amendment**”) is made as of \_\_\_\_\_, 2024 (“**Effective Date**”) between CITY OF HOBBS, a New Mexico municipal corporation (“**Ground Lessor**”) and COVENANT HOSPITAL HOBBS, a Texas nonprofit corporation (“**Ground Lessee**”).

### RECITALS

A. Ground Lessor and Ground Lessee (as successor-in-interest to Lea Regional Hospital, L.L.C.) are parties to that certain Ground Lease dated December 4, 2006 (the “**Ground Lease**”), respecting the Leasehold Property located at 5625 N. Industrial Drive, Hobbs, NM 88240, as more particularly described in the Ground Lease. A true and correct copy of the Ground Lease is attached to this Amendment as **Exhibit A**.

B. Ground Lessee desires to lease the entire Leasehold Property to Amazon.com Services LLC (“**Tenant**”) pursuant to that certain Lease Agreement dated \_\_\_\_\_, 2024 (“**Amazon Lease**”).

C. In connection with the Amazon Lease, Ground Lessor and Ground Lessee desire to amend the Ground Lease to, among other things, (i) approve the proposed permitted use of Tenant, and (ii) revise the rent paid by Ground Lessee to Ground Lessor pursuant to the Ground Lease.

### AMENDMENT

1. Recitals; Defined Terms. The recitals above are incorporated as if set forth below. Capitalized terms used herein but not otherwise defined shall have the definitions given in the Ground Lease.

2. Permitted Use. Tenant intends to use the Leasehold Property for an Amazon warehouse as more particularly described in the Amazon Lease. Notwithstanding anything to the contrary in the Ground Lease, including, without limitation, Section 4 of the Ground Lease, the Permitted Uses (as defined in the Amazon Lease) are hereby approved by the Ground Lessor.

3. Amendments.

a) Section 1.B of the Ground Lease is deleted in its entirety and replaced with the following:

*B. [Intentionally Deleted]*

b) Section 2(A), (B), and (C) of the Ground Lease are hereby deleted in their entirety and replaced with the following:

*A. Commencing on December 15, 2024, Ground Lessee shall pay Ground Lessor the annual rent as set forth below (the “**Rent**”):*

<i>Year 1 (December 15, 2024)</i>	<i>\$1,000.00 per year</i>
<i>Year 2 (December 15, 2025)</i>	<i>\$44,627.22 per year</i>
<i>Year 3 (December 15, 2026)</i>	<i>\$45,519.76 per year</i>

*B. Thereafter, starting on December 15, 2027 and continuing regularly each year thereafter without notice from the City throughout the Lease Term, the Rent shall increase 3% annually and be paid on December 15 of each year.*

*C. [Intentionally Deleted.]*

4. Ground Lessor Consent. In accordance with Section 9 of the Ground Lease, Ground Lessor hereby consents to the lease of the Leasehold Property by Ground Lessee to Tenant pursuant to the terms and conditions of the Amazon Lease.

5. Notice. Section 15 of the Ground Lease is amended to include the following updated notice address for Ground Lessee:

**Ground Lessee:**

Covenant Health  
Attn: Real Estate  
3615 19th Street  
Lubbock, Texas 79410

With a copy to:

Alston, Courtnage & Bassetti LLP  
Attn: Adam Coady  
600 University Street, Suite 2310  
Seattle, WA 98101

6. Effect of Amendment; Complete Agreement. Except as expressly set forth herein, all other terms and conditions of the Ground Lease shall continue in full force and effect. In the event of a conflict in the terms of this Amendment and the Ground Lease, the terms of this Amendment shall control. The Ground Lease, as amended by this Amendment, contains the entire agreement between the parties and supersedes any and all prior written and/or oral agreements.

7. Authority and Liability. Each party warrants to the other that this Amendment has been duly authorized, executed and delivered by it, and it has the requisite power and authority to enter into this Ground Lease and perform its obligations hereunder. Each party covenants to provide the other with evidence of its authority and the authorization of this Amendment upon request.

8. Ground Lessee Representations. Ground Lessee represents and warrants to Ground Lessor that as of the Effective Date, Ground Lessor has performed all obligations required of Ground Lessor under the Ground Lease and that there are no offsets, counterclaims or defenses of Ground Lessee existing against Ground Lessor. Ground Lessee further acknowledges and agrees that no events have occurred that, with the passage of time or the giving of notice, or both, would constitute a basis for an offset, counterclaim, or defense against Ground Lessor, and that the Ground Lease is in full force and effect.

9. Ground Lessor Representations. Ground Lessor represents and warrants to Ground Lessee that as of the Effective Date, Ground Lessee has performed all obligations required of Ground Lessee under the Ground Lease and that there are no offsets, counterclaims or defenses of Ground Lessor existing against Ground Lessee. Ground Lessor further acknowledges and agrees that no events have occurred that, with the passage of time or the giving of notice, or both, would constitute a basis for an offset, counterclaim, or defense against Ground Lessee, and that the Ground Lease is in full force and effect.

10. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but which when taken together shall constitute one and the same instrument.


11. Partial Invalidity. If any term, covenant or condition of this Amendment or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Amendment, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Amendment shall be valid and be enforced to the fullest extent permitted by law.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year first above written.

**GROUND LESSOR:**

CITY OF HOBBS,  
a New Mexico municipal corporation

By:   
Name: SAM D. LOBB  
Its: MAYOR

**GROUND LESSEE:**

COVENANT HOSPITAL HOBBS,  
a Texas nonprofit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By signing below, the Economic Development Corporation of Lea County ("EDC") hereby acknowledges and agrees as to the change in Permitted Use as set forth in Section 2 above.

ECONOMIC DEVELOPMENT  
CORPORATION OF LEA COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT A

Ground Lease

[Attached.]

CITY OF HOBBS

ORDINANCE NO. 957

AN ORDINANCE APPROVING A BUILDING PURCHASE AGREEMENT TO SELL THE INCUBATOR BUILDING AND APPROVING A GROUND LEASE TO LEASE A ± 6.83 ACRES REAL PROPERTY OF MUNICIPALLY-OWNED LAND LOCATED IN SECTION 7, T18S, R38E, NMPM IN LEA COUNTY IN THE HOBBS INDUSTRIAL AIR PARK TO THE LEA REGIONAL HOSPITAL, LLC.

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a building and site improvements located at 5625 N. Lovington Highway, formerly known as the Incubator Building and listed on the City of Hobbs Asset List as the "Incubator Site," and hereinafter referred to as the "Building;" and

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a ±6.83 acres tract of land situated in the Hobbs Industrial Air Park (HIAP), and hereinafter referred to as the "Leasehold Property;" and

WHEREAS, the HIAP industrial and commercial areas have been designated by the City of Hobbs Industrial Air Park Master Plan for commercial and industrial development; and

WHEREAS, an appraisal of value has been completed and the land value was determined to be \$147,000, the value of the building was determined to be \$399,000, and the combined value was determined to be \$546,000; and

WHEREAS, this issue was reviewed by the HIAP Board at the August 16, and September 25, 2006 meetings; and

WHEREAS, unless a referendum election is held, this Ordinance authorizing the sale of the Building and the ground lease of the Leasehold Property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

A. The Building Purchase Agreement:

1. Terms of Building Purchase Agreement: The City proposes to sell the Building for the negotiated purchase price of \$546,000.



The sale of the City-owned real property improvement must be approved by City Ordinance, pursuant to Section 3-54-1, NMSA 1978, as amended.

The Building Purchase Agreement containing the terms of the purchase is a part of this Ordinance, is attached hereto and is incorporated herein by reference.

2. Appraised Value of Municipally-owned Improvement Asset: The appraised value of the Building was determined to be \$399,000.
3. Schedule of Payments: The purchase price of \$546,000 is to be made at closing.
4. Purchaser of Building: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs, NM 88240.
5. Purpose of Municipal Sale: Regional Medical Facility and Economic Development - Site acquisition for expansion to Lea Regional Medical Center.

B. The Ground Lease.

1. Terms of Ground Lease: The City proposes to lease the Leasehold Property for a 75 year period with the negotiated annual rent set at \$1,000 per year for the first five years of the Lease.

The lease of the City-owned real property must be approved by City Ordinance pursuant to Section 3-54-1 NMSA 1978, as amended.

The Ground Lease containing the terms of the lease and Protective Covenants for the real property is part of this Ordinance, is attached hereto and is incorporated herein by reference.

2. Appraised Value of Municipally-owned Real Property: The appraised value of the real property was determined to be \$147,000 for the 6.83 acre tract.
3. Schedule of Payments: The Annual Rent is to be paid in the amount of \$1,000 per year with the payment to be made on the Commencement Date or the anniversary thereof.
4. Option to Purchase: The Lessee is granted the Option to Purchase the Leasehold Property at any time during the Term of the Lease with the

purchase price to be set at market value at the time of the intended purchase.

5. Lessee of Property: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs, NM 88240.
6. Purpose of Municipal Lease: Regional Medical Facility and Economic Development - Site acquisition for expansion to Lea Regional Medical Center.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO:

(I)

That the City of Hobbs hereby approves the Building Purchase Agreement, subject to the conditions and terms contained therein.

(II)

That the City of Hobbs hereby approves the Ground Lease, subject to the conditions and terms contained therein.

(III)

That this Ordinance has been published prior to its adoption and shall be published at least once after adoption, pursuant to Sections 3-17-3, 3-17-5 and 3-54-1 NMSA 1978, as amended.

(IV)

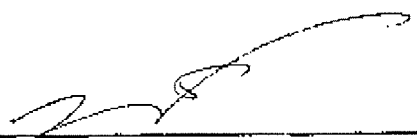
That the effective date of this Ordinance shall be forty-five (45) days after its adoption by the governing body of the City of Hobbs, unless a referendum election is held.

(V)

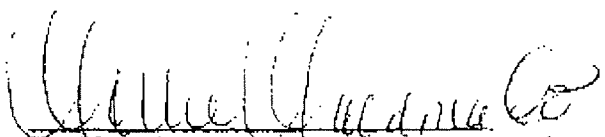
That City staff and officials are hereby authorized and directed to do all acts and deeds necessary in the accomplishment of the above.

PASSED, APPROVED AND ADOPTED this 4th day of December, 2006.

CITY OF HOBBS, NEW MEXICO

  
\_\_\_\_\_  
MONTY D. NEWMAN, Mayor

ATTEST:

  
\_\_\_\_\_  
HOLME MALDONADO, Deputy City Clerk



## BUILDING PURCHASE AGREEMENT

THIS BUILDING PURCHASE AGREEMENT (hereinafter "Agreement"), entered into this 4th day of December, 2006, between Lea Regional Hospital, LLC, a Delaware limited liability company, 5419 North Lovington Highway, Hobbs, NM 88240 (hereinafter "Purchaser"); and the City of Hobbs, New Mexico, a New Mexico Municipal Corporation (hereinafter "City").

### RECITALS:

A. The City is the owner of a certain building and site improvements known as the former EDC Incubator Building located at 8625 N. Lovington Highway, comprising 50,350 square feet, together with all other above ground improvements, structures and fixtures, and as listed on the City of Hobbs Asset List as the "Incubator Site", such property is referred to hereafter as the "Building".

B. The Building is located on a tract of land more particularly described in Exhibit A, attached hereto and made a part hereof, and hereinafter referred to as the "Leasehold Property."

C. Purchaser and the City have negotiated and approved a Ground Lease for the Leasehold Property.

D. The City entered into a certain Lease dated August 23, 1973 (the "1973 Ground Lease") with the Industrial Development Corporation of Lea County, predecessor in interest to the Economic Development Corporation of Lea County (the "EDC") wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

E. The City entered into a certain Lease dated May 2, 1983 (the "1983 Ground Lease") with the EDC wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

F. The interests of the EDC in the 1973 Ground Lease and the 1983 Ground Lease with respect to the Leasehold Property have been, or will be prior to the Closing Date, terminated; and EDC has, or will prior to the Closing Date, disclaim any and all interest it may have in the Building.

G. An appraisal of the site and the building was conducted, with the building being valued at \$399,000 and the entire site including the real property at \$546,000. The appraisal valued the land at \$147,000.

H. This Purchase Agreement proposes that the Purchaser be allowed to purchase the Building in exchange for the sum of \$546,000.

I. City, in consideration of the mutual covenants herein contained, agrees to sell and convey, and Purchaser agrees to purchase the Building as described below, together with all improvements and all rights, titles, powers, privileges, licenses, rights-of-way, hereditaments, easements and appurtenances thereunto belonging, located on the Leasehold Property.

### DESCRIPTION OF BUILDING:

The former EDC Incubator Building and Site Improvements located at 3625 N. Lovington Highway, comprising 50,350 square feet, together with all other above ground improvements, structures and fixtures, and as listed on the City of Hobbs Asset List as the "Incubator Site", except that no land or real property is included.

### NOW THEREFORE THE FOLLOWING IS AGREED BY THE PARTIES:

#### 1. Purchase Price.

A. The purchase price for the Building shall be Five Hundred Forty Six Thousand Dollars (\$546,000.00) plus other valuable considerations. The purchase price shall be paid in cash or equivalent at closing.

B. The Purchase Price includes standard City Industrial Park infrastructure and utility services pursuant to the City Utility Service Policy as adopted January 2003, including existing water and sewer mains and service connections constructed on the Building prior to the date of this Agreement. Any additional infrastructure shall be subject to separate negotiations between the parties hereto.

C. The Purchase Price does not include any new extensions of City utilities or other new infrastructure.

#### 2. Closing Date.

Closing for the sale of the Building shall occur on a mutually agreeable date, at least forty-five (45) days, but not more than one hundred twenty (120) days after the adoption of the ordinance authorizing the sale by the City, unless a referendum election is held pursuant to 3-54-1, NMSA, 1978, as amended (the "Closing Date"). The parties may extend the Closing Date by mutual agreement, not to exceed 365 days following the date of the ordinance.

#### 3. Review of Title.

As soon as reasonably possible following the execution of this Agreement, the City shall furnish Purchaser a commitment for owner's policy of title insurance ("Commitment") for the Building and a leasehold policy of title insurance with respect to the Leasehold Property together with full copies of all exceptions set forth therein, including but not limited to covenants, conditions, restrictions, reservations, easements, rights of way, assessments, liens and other matters of record. Purchaser shall have fifteen (15) days from receipt of the Commitment and copies of said exceptions within which to notify the City of Purchaser's disapproval of any exceptions shown in the Report.

The City shall have until the Closing Date to eliminate any disapproved exception(s) or patent reservations(s) from the policy of title insurance to be issued in favor of Purchaser, and if not eliminated, then the earnest money deposit shall be refunded, unless Purchaser then elects to waive its prior disapproval. Failure of Purchaser to disapprove any exception(s) or patent reservation(s) within the aforementioned time

limit shall be deemed an approval of such exception or patent reservation. The policy of title insurance shall be a standard coverage policy in the amount of the total purchase price and shall be paid for by Purchaser.

In the event this contingency or any other contingency to this contract has not been eliminated or satisfied within the time limits and pursuant to the provisions herein, and unless Purchaser elects to waive the specific contingency by written notice to the City, this Agreement shall be deemed null and void and neither party shall have any rights or liabilities under this Agreement.

#### **4. Title.**

At closing, the City shall execute and deliver a Special Warranty Deed (herein so called) conveying the Building to the Purchaser and/or his assigns, in fee simple, subject to all patent reservations and to all other existing liens, encumbrances and other exceptions of record except those exceptions and reservations which are disapproved by Purchaser and eliminated by the City pursuant to this Agreement.

#### **5. Risk of Loss.**

All risk of loss or damage to the Building will pass from the City to Purchaser at closing. In the event that material loss or damage occurs prior to closing, Purchaser may, without liability, refuse to accept the conveyance of title, in which event the earnest money deposit, if any, shall be refunded. Possession of the Building by Purchaser shall occur at closing. Before closing, Purchaser shall be solely responsible to insure Purchaser's interest in the Building if Purchaser so chooses.

#### **6. Default and Remedy.**

A. Default by City. If City defaults in the performance of this Agreement, Purchaser may terminate this Agreement and receive a refund of the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek whatever legal remedy may be provided by law.

B. Default by Purchaser. If Purchaser defaults in the performance of this Agreement prior to closing, City may terminate this Agreement and retain the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek such other relief as may be provided by law.

C. Notice and Demand for Performance. In the event that either party fails to perform such party's obligations hereunder (except as excused by the other's default), the party claiming default will give written notice of demand for performance. If the party to whom such notice and demand is given fails to comply with such written demand within ten (10) days after receipt thereof, the non-defaulting party may pursue the remedies provided in this paragraph.

#### **7. Costs and Fees.**

Closing costs shall be paid as follows:

A. All closing costs shall be paid by the Purchaser, including title insurance premium costs, title company closing fees, recording fees, additional survey costs, if

Purchaser requests an ALTA survey, and environmental assessment cost, if an environmental assessment is to be completed prior to closing.

B. The Purchaser and City shall each pay for their respective legal fees.

C. The parties agree that no realtors are involved in the sale of the Building and no real estate commission will be owing in connection with this transaction.

#### **8. Notice.**

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by certified mail, postage prepaid, to the City, at City of Hobbs, ATTN: Joe Dearing, 300 N. Turner, Hobbs, NM 88240; and to Purchaser, at Lea Regional Hospital, LLC, 5419 North Lovington Highway, Hobbs, NM 88240, Attention: Chief Executive Officer, Facsimile: 505/492-5505; With a copy to: Triad Hospitals, Inc., 5800 Tennyson Parkway, Plano, Texas 75024, Attention: Vice President-Real Estate Development, Facsimile: 214/473-7162; and With a copy to: Liechty & McGinnis, P.C., 7502 Greenville Avenue, Suite 750 Dallas, Texas 75231, Attention: Emmett W. Berryman, Esq., Facsimile: 214/265-0615, or to such other address as requested by either party. Notice shall be deemed to be received on the earlier of (i) actual receipt or (ii) the fifth day following posting. The mailing may also be completed by other acceptable forms of legal mail, as may occur in the future.

#### **9. Attorney's Fees and Costs.**

Both parties agree that if either is found by a court to have breached this Agreement, the other party may recover reasonable attorney's fees and cost of litigation.

#### **10. Counterparts.**

This Agreement may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

#### **11. Successors and Assigns.**

This Section refers to assignability of this Purchase Agreement, and not to assignability of the Building to be purchased. This Agreement may not be assigned by Purchaser without the prior written consent of the City. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns; provided that upon any assignment of this Agreement by either party, the other party shall not be released from any obligation under, or liability accruing pursuant to this Agreement. Except that Purchaser is permitted, upon City approval, to assign its interest to a Partnership or Corporation in which he is the principal party. Consent shall not unreasonably be withheld by either party.

**12. Compliance with New Mexico State Statutes.**

The City states that it has complied with the requirements of Section 3-54-1, NMSA, 1978, as amended, and that it has authorization to sell property pursuant to the Hobbs Municipal Code, as amended.

**13. Governing Laws.**

This Agreement shall be governed by the laws of the State of New Mexico. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the District Court of Lea County, New Mexico, only. If any part of this Agreement shall be deemed in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts hereof shall remain valid and enforceable.

**14. State Permits and Licenses.**

Purchaser agrees that City has no direct responsibility for Purchaser to make application and obtain required New Mexico State permits and licenses for building or facility expansion on the Building. Purchaser agrees to indemnify and hold City harmless from and against all liability, claims, demands, damages or costs of any kind arising from or connected with any New Mexico State permit or license application for activities and uses on the Building.

**15. Protective Covenants, Permitted Use and Other Site Requirements.**

A. Purchaser agrees to comply with the terms and conditions as stated in (i) the EDA Declaration (hereinafter defined) to be recorded prior to the Special Warranty Deed, and (ii) the Protective Covenants and Use Requirements for the Lea Regional Hospital, LLC Property in the form set forth on Exhibit "D" attached hereto (the "City Declaration") to be recorded prior to the Special Warranty Deed and encumbering the Building and the Leasehold Property.

B. According to the requirements of the Economic Development Corporation of Lea County, a New Mexico corporation (EDC), the following covenants shall be contained in the City Declaration and are therefore to be hereby agreed for all activities in the Building and on the Leasehold Property:

"Purchaser hereby acknowledges and agrees that use of the Property shall be limited to the development, construction, maintenance and operation of a medical office building, hospital or other healthcare facility which provides healthcare services through licensed physicians and support services related thereto, including, without limitation, materials management functions and medical records storage ("Permitted Uses"). Purchaser shall not extend, modify, amend, change, terminate or otherwise in any manner change the use ("use Change") without the prior express written consent of EDC, which consent will not be unreasonably withheld, so long as such use Change (i) is for Permitted Uses and (ii) contains the requirement of EDC's consent to any further use Change."

C. Other healthcare related commercial operations and activities are to be permitted if they are consistent with the type of traffic, noise and other impacts



associated with the use of the areas surrounding the Property. All proposed uses other than those listed in this Lease must be reviewed and approved by the City in writing. The City may condition such consent upon requiring other conditions before consenting to another use, such as 1) details of the proposed use and operations on the site; 2) conditions affecting the environment; and/or 3) pursuant to any protective covenants or other use regulations and/or obtaining additional information on the proposed use.

D. According to the requirements of the US Department of Commerce Economic Development Administration, the following covenants will be contained in the Declaration of Covenants – Release of Property Management Agreement – Covenant of Use (the "EDA Declaration"), pursuant to Federal Law 13 CFR Subpart D §314.10 to be executed and recorded by City and the US Economic Development Administration concurrently with the Special Warranty Deed, and are therefore to be hereby agreed for all activities on the Leasehold Property. The EDA Declaration is attached hereto and made a part of this Agreement as Exhibit "B".

**16. Termination.**

This Agreement shall be terminated on the Closing Date for the sale of the Building, unless either party ends the Agreement prior to that date pursuant to Section 9 of this Agreement, except that any provision calling for obligations continuing after the Closing Date shall survive. All of the City's warranties, representations, certifications, and agreements contained herein shall be and remain true at the time of closing.

**17. City Permits.**

The zoning designation of the Leasehold Property will be Planned Unit Development at such time that the City adopts a Zoning Ordinance. The Protective Covenants have been completed according to the needs of the Purchaser by the City. Purchaser must be responsible to apply for other City permits, including a City Business Registration or License Fee.

**18. Conditions For Completing The Purchase.**

The following actions must occur and be performed prior to Purchaser satisfactorily closing on the Property:

A. The City Commission must have approved the necessary Ordinance for the Sale of the Property, subject only to the referendum election as specified in 3-54-1 et. seq., NMSA, as amended. In addition, the City HEAP Board should have reviewed and made recommendation on the purchase proposal.

B. Purchaser must have received, reviewed and approved the survey legal description and survey plat prior to Closing Date. Purchaser shall have survey documents for review at least twenty (20) calendar days prior to intended date of Closing. Purchaser shall have until the date of closing to raise any objections with City, or request changes on the survey.

C. There shall be no material adverse change in the condition of the Building as of the Closing Date.

D. The representations and warranties contained in this Agreement are true and correct as of the date of this Agreement.

E. Purchaser shall have received partial terminations of the 1973 Ground Lease and the 1983 Ground Lease executed by the City and EDC with respect to the Property and sufficient to allow the title company to remove any exception related to the 1973 Ground Lease or the 1983 Ground Lease from the policy of title insurance to be issued to Purchaser at Closing.

F. If any of the conditions set forth in this section are not satisfied to the sole discretion of the Purchaser prior to closing, or waived by the time specified therefor, or, if no time is specified, then by the closing date, then the Purchaser shall receive a refund of the earnest money deposit plus interest earned.

G. At closing, the City will prepare and record those easements to be recorded with the Special Warranty Deed pursuant to Section 20 hereof.

**19. Representations and Certifications Made As A Part Of This Agreement.**

The City represents and warrants to the Purchaser that the following shall be true and correct, as of the date hereof and as of the date of closing:

A. The City owns title to the Building and Leasehold Property subject only to easements, restrictions and reservations of record as disclosed in the title commitment.

B. There are no public improvements which have been commenced or completed for which special real property tax assessments may be or have been levied against the Building or the Leasehold Property.

C. There are no known existing violations of applicable law with respect to the Building or the Leasehold Property.

D. There is no litigation pending or threatened against the Building and Leasehold Property which might result in a lien on either the Building or the Leasehold Property, or might interfere with the City's ability to sell or convey the Building or lease the Leasehold Property, or which might have a material adverse change upon the Building or the Leasehold Property.

E. The execution and delivery of the Purchase Agreement and closing of the sale by the City will not result in the breach of any agreement, decree or order to which the City is a party or by which the Building is bound.

F. There are no condemnation proceedings pending or threatened with respect to all or any portion of the Building or the Leasehold Property.

G. To the best knowledge of the City as of the date hereof, the following statement is made regarding the Building or the Leasehold Property:

To the City's actual knowledge, there has been no release of any hazardous substances in, on or about the Building or the Leasehold Property. The City has not received notice from any governmental authority of the release or

presence of any hazardous substances. To the best knowledge of the City, neither the Building nor the Leasehold Property presently is or has ever been used for the storage, manufacture, disposal, handling, transportation or use of any hazardous substances in violation of any law. To the best knowledge of the City, there are no past or present investigations, proceedings, litigation or regulatory hearings with respect to the Building or the Leasehold Property alleging non-compliance with or violation of any federal or state law regarding environmental matters. To the City's actual knowledge, there has not now, nor have there been, any above ground or underground storage tanks located in or under the Building or the Leasehold Property. To the City's actual knowledge, the Leasehold Property has previously been owned by the US Government Land Office, the City of Hobbs, the US Hobbs Army Airfield, and the City of Hobbs, New Mexico. The only known prior uses of the Leasehold Property are 1) open range grazing by local ranches from 1880 through the 1940's time period; 2) use of the area as a vacant portion of for the Hobbs Army Airfield operation during W.W.II; and industrial operations in the EDC Incubator Building since 1973, originally designed and built as a denim jeans manufacturing plant and thereafter for a variety of other light industrial operations.

H. The City is not a party to any contracts relating to the Leasehold Property, except for this Agreement, and the 1973 Ground Lease and the 1983 Ground Lease referred to above.

**20. City Easements to be Retained on the Leasehold Property.**

The City retains the following utilities and easements on the Leasehold Property, as shown on Exhibit #C. These utility corridors may be defined further as easements and recorded in the Lea County Clerk's Records:

- A. A sewer main corridor 35 feet in width on the southeast with a total length of approximately 720 linear feet boundary including several manholes.
- B. A water main corridor 25 feet in width on the southwest and northwest boundaries approximately 1,125 feet in total length including fire hydrants.
- C. An access corridor on the parking areas with right of access to enter the above easements.
- D. The Legal descriptions for those easements are more particularly described in Exhibit "C" which is attached hereto and made a part of this Agreement. At closing, the City will prepare and record those easements to be recorded with the Special Warranty Deed.
- E. The City may require additional reasonable easements on the Leasehold Property for City infrastructure and City utilities and for other public utility companies, which easements shall be shown on the Survey. Such restrictions as reflected on the Survey and as referred to in the Commitment or any updated Commitment shall be subject to Purchaser's approval or disapproval in the manner specified herein.

**21. Time of Essence.**

Time is declared to be of the essence of this Agreement.

**22. Additional Documents.**

The parties agree to execute further documents as may be reasonably required to effectuate the purchase and sale of the Building as provided by this Agreement.

**23. Entire Document.**

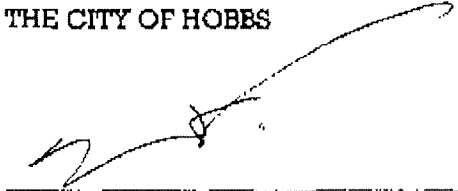
This instrument constitutes the entire agreement between the City and the Purchaser, regarding the purchase and sale of the Building, and there are no agreements, understandings, warranties, or representations between the Purchaser and the City except as set forth herein. This Agreement cannot be amended except in writing executed by the Purchaser and the City.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Done and approved on the date first written above.

SELLER

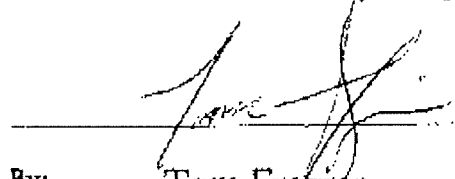
THE CITY OF HOBBS



Mayor Monty D. Newman

PURCHASER

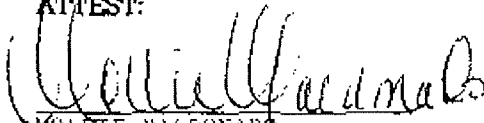
LEA REGIONAL HOSPITAL, LLC  
A Delaware Limited Liability Company



By: Tom Frazier

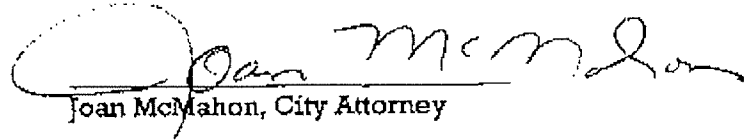
Title: Senior Vice President

ATTEST:



MOLLIE MALDONADO,  
Deputy City Clerk

APPROVED AS TO FORM:



Joan McMahon, City Attorney



**EXHIBIT "A"**

**LEGAL DESCRIPTION - LEASEHOLD PROPERTY**

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD FROM WHICH A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHEAST CORNER OF SAID SECTION 7 BEARS N49°49'41"E 80.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE TEXAS/NEW MEXICO RAILROAD AND S40°10'19"E ALONG THE SAID RAILROAD RIGHT OF WAY LINE 2539.19 FEET AND S00°40'41"E ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 1207.74 FEET;

THEN S49°49'41"W 414.94 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST SOUTHERLY CORNER OF THIS TRACT;

THEN N40°10'19"W 351.06 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR AN INTERIOR CORNER OF THIS TRACT;

THEN S49°49'41"W 75.00 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A CORNER OF THIS TRACT;

THEN N40°10'19"W 309.80 FEET TO 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST WESTERLY CORNER OF THIS TRACT;

THEN N49°49'41"E 489.94 FEET TO A 1/2" REBAR FOUND FOR THE MOST NORTHERLY CORNER OF THIS TRACT AND A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD;

THEN S40°10'19"E ALONG SAID WEST LINE OF INDUSTRIAL ROAD 660.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 297,451.34 SQUARE FEET AND 6.83 ACRES MORE OR LESS.

**EXHIBIT "B"**

**EDA DECLARATION**

**EXHIBIT "C" (Page 1)**

**LEGAL DESCRIPTION OF EASEMENTS**

**DESCRIPTION WATER LINE 1**

A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE SOUTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES  $N35^{\circ}29'36''W$  3474.95 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN  $N39^{\circ}42'04''W$  383.14 FEET; THEN  $S49^{\circ}28'49''W$  88.35 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID 6.83 ACRES TRACT WHICH LIES  $N37^{\circ}13'39''W$  3858.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 471.49 FEET OR 28.58 RODS

**DESCRIPTION WATER LINE 2**

A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHWESTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES  $N36^{\circ}14'52''W$  4141.76 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN  $S40^{\circ}10'13''E$  159.10 FEET; THEN  $S51^{\circ}37'09''W$  61.59 FEET; THEN  $S40^{\circ}10'13''E$  120.95 FEET TO A POINT ON AN EXISTING WATER LINE SITUATED IN SAID 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES  $N36^{\circ}52'11''W$  3860.34 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 341.64 FEET OR 20.71 RODS

**DESCRIPTION WATER LINE 3**

A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON AN EXISTING WATER LINE SITUATED IN A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES  $N36^{\circ}10'09''E$  4060.46 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN  $N49^{\circ}45'32''E$  300.62 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES  $N31^{\circ}58'03''W$  4092.81 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.



**Exhibit "C" (Page 2)**

TOTAL LENGTH EQUALS 300.62 FEET OR 18.22 RODS

**DESCRIPTION SEWER LINE 1**

A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N29°05'42"W 3581.84 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N62°51'08"W 23.52 FEET; THEN S28°43'10"W 5.71 FEET; THEN N67°00'33"W 210.41 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°20'03"W 3767.22 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 239.64 FEET OR 14.52 RODS

**DESCRIPTION SEWER LINE 2**

A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N28°59'16"W 3547.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S49°47'08"W 330.64 FEET; THEN S75°04'21"W 93.20 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID 6.83 ACRE TRACT WHICH LIES N35°44'01"W 3530.59 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 423.84 FEET OR 25.69 RODS

**EXHIBIT "D"**

**CITY DECLARATION**

47-  
20  
35156

GROUND LEASE

THIS GROUND LEASE (this "Lease"), is made and entered into this 4th day of December 2006, by and between the CITY OF HOBBS, a municipal corporation in the State of New Mexico, (hereinafter called "City") and LEA REGIONAL HOSPITAL, L.L.C., a Delaware limited liability company, hereafter called "Lessee").

RECITALS:

A. The City is the owner of certain real property, referred to hereafter as the "Leasehold Property", within the City Limits of Hobbs within Lea County, State of New Mexico, as specifically described in Exhibit "1" attached hereto, and as follows:

Leasehold Property Description: A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD FROM WHICH A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHEAST CORNER OF SAID SECTION 7 BEARS N49°49'41"E 80.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE TEXAS/NEW MEXICO RAILROAD AND S40°10'19"E ALONG THE SAID RAILROAD RIGHT OF WAY LINE 2539.19 FEET AND S00°40'41"E ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 1207.74 FEET;

THEN S49°49'41"W 414.94 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST SOUTHERLY CORNER OF THIS TRACT;

THEN N40°10'19"W 351.06 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR AN INTERIOR CORNER OF THIS TRACT;

THEN S49°49'41"W 75.00 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A CORNER OF THIS TRACT;

THEN N40°10'19"W 309.80 FEET TO 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST WESTERLY CORNER OF THIS TRACT;

THEN N49°49'41"E 489.94 FEET TO A 1/2" REBAR FOUND FOR THE MOST NORTHERLY CORNER OF THIS TRACT AND A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD;

THEN S40°10'19"E ALONG SAID WEST LINE OF INDUSTRIAL ROAD 660.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 297,451.34 SQUARE FEET AND 6.83 ACRES MORE OR LESS.

B. City and Lessee desire to enter into a lease of the Leasehold Property for the purpose of allowing Lessee to operate a multi-purpose commercial medical center facility on the site to include buildings, parking, loading, as desired by Lessee.

C. The City entered into a Lease dated August 23, 1973 (the "1973 Ground Lease") with the Industrial Development Corporation of Lea County, predecessor in interest to the Economic Development Corporation of Lea County (the "EDC") wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

D. The City entered into a Lease dated May 2, 1983 (the "1983 Ground Lease") with the EDC wherein the City leased to the EDC certain real property more particularly described therein and containing the Leasehold Property.

E. The interests of the EDC in the 1973 Ground Lease and the 1982 Ground Lease with respect to the Leasehold Property have been, or will be, terminated prior to the Commencement Date of this Lease.

F. Lessee owns, or will own, prior to the Commencement Date, certain improvements on the Leasehold Property and may construct additional improvements upon the Leasehold Property.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, City hereby leases to Lessee, the Leasehold Property, together with all appurtenant easements, rights and privileges, attached hereto and made a part of this Lease, under the terms and conditions of this Lease:

1. **Leasehold Term, Rent Adjustments, Commencement Date And Possession.**

A. The term of this Lease shall be seventy-five (75) years (hereinafter "Lease Term") commencing on the "Commencement Date," as hereinafter defined, and terminating on the Seventy-fifth (75th) anniversary of the Commencement Date. The Commencement Date shall be \_\_\_\_\_, 2007, based on the final approval by the Hobbs City Commission on December 4, 2006, unless a referendum election is held pursuant to Section 3-54-1 NMSA, as amended. Possession of the Leasehold Property shall be on the Commencement Date.

B. The rent shall be adjusted every fifth year based on the change in the percentage amount equal to the five year overall increase in the US Consumer Price Index (All Urban Consumers - U.S. All Items Index) during the preceding five (5) years. The Rent shall then be adjusted at the start of each and every fifth year thereafter during the Lease Term. As an alternative and if agreed to by the parties hereto, the

City may provide a written market analysis of comparable commercial property in Hobbs from an independent qualified appraiser hired by the City as a basis for the rent adjustment.

- C. Lessee shall and may peaceably and quietly have, hold and enjoy the Leasehold Property for the Lease Term, as long as Lessee is in compliance with the terms of the Lease Agreement, subject to all applicable notice and cure periods.
- D. Lessee acknowledges that it has fully inspected the Leasehold Property and Lessee hereby accepts the Leasehold Property, buildings and improvements, if any and each appurtenance thereto as is, in their present state and condition, as suitable for the purpose for which the same are leased and will allow for changes in such condition occurring by reasonable deterioration, normal wear and tear excepted.
- E. If Lessee should remain in possession of the Leasehold Property after the expiration or termination of this Lease, without the execution by City and Lessee of a new Lease, the Lessee shall be deemed to be occupying the Leasehold Property as a tenant-at-sufferance, subject to all the covenants and obligations of this Lease, and shall pay as rent an amount equal to the monthly base rent, as adjusted immediately prior to the termination.
- F. After the Lease Commencement Date, but prior to the approval of any building permit application for permanent building structures, City may require Lessee to provide at Lessee's expense a Drainage Study prepared by a licensed New Mexico Professional Engineer to the City Engineer of the Leasehold Property with respect to the portion of the Leasehold Property in the 100 Year Special Flood Hazard Zone. If required, the report must address that the Leasehold Property development will not be endangered by the 100 year flood hazard, or that the development of the Leasehold Property will not adversely impact the adjacent properties. The City Engineer must approve the study prior to issuance of any building permits for buildings.

2. **Rent Payments.**

- A. Beginning on the Commencement Date, the Lessee shall pay the City a fixed annual rental ("Rent"). The amount of the annual rent payment shall be One Thousand Dollars (\$1,000.00) per year for each of the first five (5) years of the Lease Term.
- B. The first year rent shall be paid as follows:

Earnest Money Deposit	None Required
Commencement Date	\$1,000.00

- C. Thereafter starting in the year 2007 and continuing regularly each year thereafter without notice from the City throughout the Lease Term, annual rent payments shall be paid on the following dates:

Annual Payment	December 15
----------------	-------------

- D. In exchange for payment of the rent, possession of the Leasehold Property will be granted on the Commencement Date of the Lease.

- E. The Rent does not include the following, and Lessee shall be solely responsible for the following infrastructure extensions to the Leasehold Property:

1) City utilities infrastructure of water systems providing adequate fire flow volume and pressure for fire suppression; City waste water treatment services; and existing infrastructure in the Hobbs Industrial Air Park (the "HIAP").

2) Water and Sewer Meter Assessments, Service Charges, Hook-up Charges and Monthly Maintenance Fees are not included in the Rent and must be paid separately. There are no water development charges for fire suppression water meters.

3) Telephone service is provided to the Industrial Park by Valor Telecom or LEACO. The Rent does not include the cost, if any, for telephone cable hook-up and service, both to the site and on site and within the building, with these costs to be paid by the Lessee.

4) Electric Power is provided to the Industrial Park by Xcel Energy Company. The Rent does not include the cost, if any, for telephone cable hook-up and service, both to the site and on site and within the building, with these costs to be paid by the Lessee. Lessee shall be responsible for all line extensions to the Leasehold Property and on the site. Lessee will be responsible for cost share of any required extensions to the site; and construction of primary conduit to City right-of-way, transformer pad, and all secondary conduit and wire extensions on the site.

- F. Lessee will pay all charges made against said Leasehold Property, including but not limited to, on-going monthly utility fees for water, waste water, natural gas, electricity, telecommunications, or any other utility furnished to the Leasehold Property during the continuance of this Lease, as the same shall become due. Lessee shall be responsible for paying or putting up any bonds or deposits required by any entity furnishing utility services to the Leasehold Property which is the subject matter of this Lease. City shall not be liable in damages or otherwise for failure, stoppage or interruption of any such service, nor shall the same be

construed as an eviction of Lessee, or work as an abatement of rent, or relieve Lessee from the operation of any covenant or agreement; but in the event of any failure, stoppage or interruption thereof, Lessee shall use reasonable diligence to resume service promptly.

3. Option To Purchase.

A. For valuable consideration, City grants to Lessee the exclusive option to purchase (the "Purchase Option") the Leasehold Property as described above with the purchase price to be set at Fair Market Value (hereinafter defined) following Lessee's exercise of the Purchase Option at any time during the Lease Term, subject to the terms and conditions which follow in this Agreement.

B Terms and conditions regarding this Option and the Leasehold Property purchase are as follows:

1. The "Fair Market Value" of the Leasehold Property will be determined in the following manner: The City, at the City's sole cost and expense shall designate a professional, qualified appraiser who is engaged in the business of appraising commercial real estate located in Lea County, New Mexico and surrounding areas of New Mexico and Texas (an "Appraiser"), and shall notify Lessee of the Appraiser so selected within fifteen (15) days following the City's receipt of the Purchase Notice (hereinafter defined). Any appraisal performed in pursuant to the terms hereof will establish a value of only the 6.83 acre Leasehold Property, and shall not include the value of any assets located on the Leasehold Property owned by Lessee. If Lessee disputes the value established by the City's Appraiser, Lessee shall have the right to designate an Appraiser and shall notify the City of the Appraiser so selected within fifteen (15) days following receipt of the appraisal from the City's Appraiser, who shall perform an appraisal pursuant to the terms and conditions hereof, at Lessee's sole cost and expense. In the event that the two Appraisers cannot agree on a determination of the Fair Market Value of the Leasehold Property within ten (10) days following delivery of the appraisal by Lessee's Appraiser, the Fair Market Value shall be determined by taking the average of the two appraisals, unless the difference between the two appraisals is greater than twenty percent (20%) of the higher appraised value, in which case either party may elect to have the two (2) Appraisers select a third (3<sup>rd</sup>) Appraiser who is similarly qualified within ten (10) days after the expiration of such ten (10) day period. The cost of the third (3<sup>rd</sup>) Appraiser, if necessary, will be split evenly between the parties. In the event a third (3<sup>rd</sup>) Appraiser is selected, the Fair Market Value shall be that value determined by the majority of Appraisers, or if a majority cannot agree, then that determined by averaging the two (2) highest appraisals. The

Appraisers shall notify each party of their determination in writing. Both Lessor and Lessee shall be bound by the determination of the Appraisers in accordance with the provisions of this Section 4.B.1 and the determination shall be enforceable against each party. All appraisers selected for the above appraisal process shall be credentialed as professional members of M.A.I., engaged in the business of appraising commercial real estate located in Lea County, New Mexico and surrounding areas of New Mexico and Texas.

2. All closing costs for the purchase of the Leasehold Property will be paid by Lessee, in addition to the any other costs necessary to complete the real property transaction.
3. Lessee agrees to comply with terms and conditions contained in that certain Protective Covenants and Use Requirements for the Lea Regional Hospital, LLC Property (the "City Declaration") and are therefore agreed for all activities on the Leasehold Property which shall be filed on or prior to the Commencement Date in the Real Property Records of Lea County and encumber the Leasehold Property. Those covenants shall be referred to in the Deed (hereinafter defined).
4. Lessee must be responsible to provide the current survey of the Leasehold Property prepared by a surveyor licensed in the State of New Mexico prior to closing, and the survey must be approved by the City.
5. Upon establishment of the purchase price pursuant to Section 4.B.1 above, a binding Purchase Agreement will be prepared by the City and negotiated with the Lessee to complete the purchase. The Purchase Agreement shall contain the Permitted Uses and Requirements, Additional Site and Building Requirements and Enforcement of Building Design Standards which are contained in the Protective Covenants on the Leasehold Property and other conditions which may be specified by the City and the Lessee. The purchase must comply with all relevant New Mexico Statutes in effect at the time of the purchase.
6. If Lessee wishes to exercise the option to purchase the Leasehold Property, Lessee must notify the City in writing at least one hundred eighty (180) days prior to the date of the intended purchase (the "Purchase Notice").
7. If Lessee exercises its option to purchase, City will execute and deliver a Special Warranty Deed (the "Deed") conveying in fee simple title to the Leasehold Property to Lessee with good and indefeasible title to the Leasehold Property, free of liens and encumbrances, subject only to all patent reservations and to all other existing exceptions of record except



those exceptions and reservations which are disapproved by Lessee and eliminated by the City pursuant to terms of the agreement for final terms of closing and purchase.

**4. Permitted Uses and Requirements**

A. According to the requirements of the EDC, the following covenants shall be contained in the City Declaration to be executed and recorded by City concurrently with the execution of this Lease on or prior to the Commencement Date, and are therefore to be hereby agreed for all activities on the Leasehold Property:

"Lessee hereby acknowledges and agrees that use of the Leasehold Property shall be limited to the development, construction, maintenance and operation of a medical office building, hospital or other healthcare facility which provides healthcare services through licensed physicians and support services related thereto, including, without limitation, materials management functions and medical records storage ("Permitted Uses"). Lessee shall not extend, modify, amend, change, terminate or otherwise in any manner change the Lease ("Lease Change") without the prior express written consent of EDC, which consent will not be unreasonably withheld, so long as such Lease Change (i) is for Permitted Uses and (ii) contains the requirement of EDC's consent to any further Lease Change.

B. Other healthcare related commercial operations and activities including may be considered if they are consistent with the type of traffic, noise and other impacts associated with the use of the areas surrounding the Leasehold Property. All proposed uses other than those listed in this Lease must be reviewed and approved by the City in writing. The City may condition such consent upon requiring other conditions before consenting to another use, such as 1) details of the proposed use and operations on the site; 2) conditions affecting the environment; and/or 3) pursuant to any protective covenants or other use regulations and/or obtaining additional information on the proposed use.

**5. Additional Use Provisions and Requirements**

A. According to the requirements of the US Department of Commerce Economic Development Administration ("EDA"), the following covenants will be contained in the Declaration of Covenants - Release of Property Management Agreement - Covenant of Use (the "EDA Declaration"), pursuant to Federal Law 13 CFR Subpart D §314.10 to be executed and recorded by City and the US Economic Development Administration concurrently with the execution of this Lease, and are therefore to be hereby agreed for all activities on the Leasehold Property.

6. Lessee's Warranties.

- A. Lessee shall maintain the Leasehold Property and any improvements, fixtures or equipment on the Leasehold Property in a manner which is reasonably satisfactory to City. Reasonable maintenance and repairs to structures on the Leasehold Property will be performed by Lessee at its sole cost.
- B. For any new construction or development on the Leasehold Property following the approval of this Lease, Lessee must meet minimum City of Hobbs Design Standards For Construction Regulations for building and infrastructure construction, including water, sewer, gas, streets, drainage, signs, landscaping, use and subdivision regulations and building codes, etc.
- C. Where the slope and terrain is such that active soil erosion may occur or result from soil disturbance, erosion control practices must be carried out by Lessee, as determined necessary by City to control any excessive storm-water run-off and prevent erosion.
- D. No hazardous waste or solid waste as defined by the New Mexico Environment Department shall be permitted to be disposed of on the Leasehold Property.
- E. At the end of the Lease Term and any Extended Term, or at the date of any relinquishment, sublease or assignment, Lessee shall furnish to City a Phase I Site Environmental Assessment Report on the Leasehold Property, prepared by a licensed New Mexico Professional Engineer or Geologist. The environmental assessment shall include but not be limited to research of previous activities that may present potential hazards, examination of potential groundwater contamination, and other related activities. The environmental assessment will not include soil boring and soil analysis, unless a written request is received from City requesting soil boring and soil analysis to be conducted as further study. The cost of the Phase I Environmental Assessment will be the responsibility of the Lessee. If any pollutants or soil contaminants are found to be present on the Leasehold Property, Lessee shall be responsible for removal and clean-up of these pollutants and contaminants, prior to the end of the Lease Term or the Extended Term. If any soil boring is required by the City, the City shall pay for these costs. The City will not extend the term of the lease until a clean Phase I Environmental Assessment is received. If Lessee refuses to provide such Environmental Assessment Report, the City has the right to complete the Environmental Assessment and assess reasonable costs to Lessee.

7. Insurance.

Lessee shall maintain general public liability and casualty insurance insuring against such claims, and shall annually furnish to the City a certificate or other evidence and proof of

maintenance of such comprehensive public liability insurance, including a copy of the policy, with the City named as an additional insured, which insurance shall have minimum limits of at least the sum of One Million and No/100 Dollars (\$1,000,000.00) for general liability and casualty coverage arising out of a single occurrence. Such insurance shall be with a company licensed and authorized to do business in the State of New Mexico and to provide general liability and casualty coverage of the type required herein, which policy shall include fire and extended coverage liability. Lessee shall provide the City with notice of any change thereof, and shall furnish to the City evidence of acquirement of a substitute therefor, and payment of the premium thereof.

**8. Construction And Ownership Of Improvements.**

- A. During the Lease Term or the Extended Term of this Lease, title to all improvements constructed upon the Leasehold Property by Lessee is and shall be vested in Lessee. Lessee's existing improvements on the Leasehold Property are described in Exhibit "1" attached hereto and made a part of this Lease, and these improvements are not owned by the City. If at any time during the Lease Term, all Rent then due and owing has been fully paid and Lessee is not in default under this Lease, Lessee may remove these improvements from the Leasehold Property.
- B. At the expiration or termination of this Lease, Lessee shall have the right to remove or dispose of all buildings and other improvements remaining on the Leasehold Property. All buildings and/or improvements remaining on the Leasehold Property after the termination date will become the property of the City. The City shall not pay any compensation to the Lessee for any buildings or improvements remaining on the Leasehold Property after the termination date.

**9. Assignment And Sublease.**

- A. Lessee may not assign or sublease the Leasehold Property granted by this Lease or the improvements on the Leasehold Property without the prior written consent of the City, which consent shall not be unreasonably withheld. The City may condition its consent of a sublease or assignment of the entire property upon an adjustment of the Rent, and may require other conditions before consenting to an assignment or sublease, such as 1) those conditions noted above; 2) review and approval of financial and other background information on the proposed sub-Lessee; and/or 3) the sale of Lessee's entire assets in the Hobbs Industrial Air Park to the same user as assignee; provided, that with respect to any sublease of the Leasehold Property by Lessee to a third party developer for the purposes of constructing, maintaining and operating a medical office building in accordance the City Declaration, the EDA Declaration and the terms of this Lease (an "MOB Developer"), the City may not condition its consent to such sublease only on subpart 2) above and may not condition its consent on an adjustment in Rent or a sale of Lessee's entire assets in the Hobbs Industrial Air Park, notwithstanding

any provision to the contrary contained herein. The annual rent for any additional user of the Leasehold Property will be negotiated with the City, prior to any use by another user. Such additional Rent, conditions or covenants shall not be unreasonable but shall be in accord with the proper administration of the Leasehold Property granted by this Lease. The City Commission is the final authority to grant final approval to any assignment subject to the purposes of the Lease.

- B. Notwithstanding the prohibition against assignment and subleasing contained in Section 10(A) above, Lessee shall be permitted to assign its rights under this Lease, without the consent of City, to (i) any subsidiary or other entity owned at least fifty-one percent (51%), directly or indirectly, by Triad Hospitals, Inc. ("Triad"), (ii) to any person, firm or corporation who is the purchaser of all or substantially all of the assets of Lessee or Triad or is the successor to the assets and business of Lessee or Triad by virtue of a corporate merger or consolidation of, with or into Lessee or Triad, or (iii) the purchaser of all or substantially all of the assets of Lea Regional Medical Center located in Hobbs, New Mexico. Each such assignee shall be liable for the performance and observance of all of the covenants and agreements of Lessee under this Lease arising after such assignment. Lessee and any assignee will be jointly and severally primarily liable for payment and performance under this Lease; provided, in the case of any assignment described in clauses (i), (ii) or (iii) above, Lessee shall be released from all further liability for Rent or any other sums becoming due and payable under this Lease after assignment if the assignee under any such assignment has a net worth comparable to that of Lessee, and has a Standard and Poor's rating of BB or better (or, if such rating system is no longer used by Standard and Poor's, such rating as is then comparable to a BB rating as of the date of this Sublease, or if Standard and Poor's no longer publishes comparable ratings, such other rating as is most closely comparable thereto). Consent shall not unreasonably be withheld by either party.
- C. Upon a valid assignment of this Lease, the Lessee shall be relieved of all obligations and liabilities arising from this Lease effective as of the date of the assignment, except for liability and obligations regarding any environmental contamination or damage which occurred on the Leasehold Property during the Lease Term.
- D. Lessee can not assign the Lease prior to the Commencement Date.
- E. On any assignment or sublease, the access to the Leasehold Property must be through the primary access on Industrial Street (Lovington Highway), unless a separate legal access is provided to the south or west boundary of the Leasehold Property from Lessee's contiguous property.

**10. Default And Cancellation.**

- A. The violation by Lessee of any of the terms, conditions or covenants of this Lease or the nonpayment by Lessee of any rent due under this Lease shall be considered a default and may cause this Lease to be cancelled and terminated at the City's sole discretion, following at least one hundred twenty (120) days advance written notice of such default from City to Lessee; provided, however, said cancellation shall not be made if, within the one hundred twenty (120) day notice period, Lessee cures or remedies said default or otherwise complies with any demand contained within such written notice which cures or remedies the default.
- B. If City defaults in the performance of this Lease prior to the Commencement Date, Lessee may terminate this Lease and receive a refund of the earnest money deposit, if any, or may waive default and seek whatever legal remedy may be provided by law.
- C. If Lessee defaults in the performance of this Lease prior to the Commencement Date, City may terminate this Lease and retain the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek such other relief as may be provided by law.

**11. Relinquishment.**

At any time, upon one hundred twenty (120) days prior written notice, provided all rents then due and owing have been fully paid and Lessee is not in default under this Lease, Lessee may cancel and relinquish the Leasehold Property to the City whereupon Lessee shall be relieved of any further liabilities and obligations under this Lease. Section 9 of this Lease shall apply with respect to removal of improvements upon such termination. Lessee shall not be entitled to a refund of any rent paid. The parties may mutually agree in writing that this lease may be terminated within one hundred twenty (120) days after said mutual agreement is signed.

**12. Obligations and Other Commitments Made By City.**

The following schedule provides a summary of the commitments made by the City in this Lease:

- A. The Leasehold Property Survey has been completed by Lessee and is attached hereto. The City has approved the Survey.

**13. Additional Site and Building Requirements.**

In addition to the requirements of the City Building Code, and the EDA Declaration, or Zoning Design Standards which may be adopted for the Leasehold Property in the future, the City shall record in the City Declaration to be executed and recorded by City concurrently with the execution of this Lease, and are therefore to be hereby agreed for all activities on the Leasehold Property. These covenants specify requirements for Site and Building Design and Construction Standards, and the enforcement of those standards by the City.

14. **City Utilities and Easements on the Leasehold Property.**

The City retains the following utilities and easements on the Leasehold Property, as shown on Exhibit #1. These utility corridors will be defined further as easements and recorded in the Lea County Clerk's Records:

- A. A sewer main corridor 35 feet in width on the southeast with a total length of approximately 720 linear feet boundary including several manholes.
- B. A water main corridor 25 feet in width on the southwest and northwest boundaries approximately 1,125 feet in total length including fire hydrants.
- C. An access corridor on the parking areas with right of access to enter the above easements.

15. **Notice.**

All notices given pursuant to or in connection with this Lease shall be made in writing and posted by regular mail, postage prepaid, to the following:

City of Hobbs,  
ATTN: City Manager,  
Hobbs City Hall,  
Hobbs, NM 88240; and to Lessee at

Lea Regional Hospital, LLC  
Hobbs, NM 88240  
Attention: Chief Executive Officer  
Facsimile: 505/492-5505

With a copy to: Triad Hospitals, Inc.  
5800 Tennyson Parkway  
Plano, Texas 75024  
Attention: Vice President-Real Estate Development  
Facsimile: 214/473-7162

With a copy to: Liechty & McGinnis, P.C.

7502 Greenville Avenue, Suite 750  
Dallas, Texas 75231  
Attention: Emmett W. Berryman, Esq.  
Facsimile: 214/265-0615

or to such other address as requested by either party. Notice shall be deemed to be received on the earlier of (i) actual receipt or (ii) the fifth day following posting. The mailing may also be completed by other acceptable forms of legal mail, as may occur in the future.

**16. Attorney's Fees and Costs.**

If either party is found by a court to have breached this Lease, the other party may recover reasonable attorney's fees and cost of litigation. Prior to the institution of any litigation, the parties have the contractual duty to in good faith attempt to resolve any controversy hereunder at the least possible expense.

**17. Counterparts.**

This Lease may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

**18. Compliance with Statutes.**

The City states that it has complied with the requirements of State of New Mexico Statutes and the City of Hobbs, New Mexico Municipal Code and has authorization to lease the property.

**19. Governing Laws.**

This Lease shall be subject to the laws of the State of New Mexico.

**20. Indemnification.**

Lessee shall save and hold harmless, indemnify and defend the City of Hobbs, New Mexico, its elected officials, employees and agents, in their official and individual capacities, of and from any and all liabilities, claims, losses, or damages arising out of or alleged to arise out of or indirectly connected with the negligent operations of Lessee under this Lease, or arising out of the presence on the Leasehold Property of any agent, contractor or subcontractor of Lessee.

**21. Amendment.**

This Lease shall not be altered, changed or amended except by written instrument in writing executed by the City and Lessee.

**22. Waiver.**

No waiver of any breach or default by Lessee of any of the terms, conditions or covenants of this Lease shall be held to be a waiver of any subsequent breach. No waiver shall be valid or binding unless the same is in writing and signed by City.

**23. Survey of Leasehold Property.**

The Lessee has completed a current survey of the Leasehold Property prepared by a surveyor licensed in the State of New Mexico, prior to the commencement of the Lease. The City has approved the Survey which is attached hereto as Exhibit #1 and made a part of this Lease.

**24. Termination.**

This agreement shall be terminated on the termination date of the Lease Term, or by mutual agreement as provided under Section 12 Relinquishment herein.

**25. Permits.**

The use terms of this Lease for the Leasehold Property have been written according to the needs of Lessee. Lessee is responsible at its expense to apply for other City permits, including if necessary a City Building Permit, City Business Registration or License Fee. Lessee is also responsible at its expense to apply for other necessary permits from the State of New Mexico.

**26. Conditions Precedent.**

The City Commission must have approved the Lease as specified in NMSA 1978 Section 3-54-1 et. seq., as amended, prior to Lessee having any liability pursuant to the Lease.

**27. Representations and Certifications Made As A Part Of This Lease.**

- A. The City represents and warrants to Lessee that the following shall be true and correct, as of the date hereof and as of the date of commencement:
- 1) The City is the owner of the Leasehold Property subject only to easements, restrictions and reservations of record as disclosed in the title commitment, and subject to the covenants as stated in this Lease.
  - 2) There are no public improvements which have been commenced or completed for which special leasehold property tax assessments may be or have been levied against the Leasehold Property.



3) There are no known existing violations of applicable law with respect to the Leasehold Property.

4) There is no litigation pending or threatened against the Leasehold Property which might result in a lien on the Leasehold Property, or might interfere with the City's ability to sell or convey the Leasehold Property, or which might have a material adverse change upon the Leasehold Property.

5) The execution and delivery of the Lease and commencement of the Lease by the City will not result in the breach of any agreement, decree or order to which the City is a party or by which the Leasehold Property is bound.

6) There are no condemnation proceedings pending or threatened with respect to all or any portion of the Leasehold Property.

7) To the best knowledge of the City as of the date hereof, the following statements are made regarding the Leasehold Property:

a) There has been no release of any hazardous substances in, on or about the Leasehold Property. The City has not received notice from any governmental authority of the release or presence of any hazardous substances. To the best knowledge of the City, the Leasehold Property presently is not and has never been used for the storage, manufacture, disposal, handling, transportation or use of any hazardous substances in violation of any law. To the best knowledge of the City, there are no past or present investigations, proceedings, litigation or regulatory hearings with respect to the Leasehold Property alleging non-compliance with or violation of any federal or state law regarding environmental matters. To the City's actual knowledge, there has not now, nor have there been, any above ground or underground storage tanks located in or under the Leasehold Property.

b) The Leasehold Property has previously been owned by the US Government Land Office, the City of Hobbs and the US Army Airfield Division.

c) The only known prior uses of the Leasehold Property have been open range grazing by local ranches from 1880 through the present time period; use as a vacant parcel as part of the Hobbs Army Air Base from about 1940 to 1950 (this particular area was a vacant parcel according to the original plans of the Airfield complex); and approximately 1973, the Leasehold Property was leased by the City to the Industrial Development Corporation of Hobbs and then subleased to Levi-Strauss Corporation and a denim jeans wet process manufacturing process was conducted on the site until about 1985. A large manufacturing building and parking lot were constructed. In 1985, the City of Hobbs received a grant from the

US Department of Commerce, Economic Development Administration to remodel the building for use of other industrial clients. In 1991, the City received a grant from the US Housing and Urban Development Department to conduct additional improvements to the building. Since 1985, the building has been rented and leased by the EDC for a variety of small industrial and storage operations as an incubator building.

8) The City is not a party to any contracts relating to the Leasehold Property, except for this Agreement and the prior lease to the Industrial Development Corporation (Economic Development Corporation of Lea County).

9) Lessor has the full power and authority to enter into and perform this Lease according to its terms and the individual executing this Lease on behalf of Lessor is authorized to do so.

B. Lessee represents and warrants to the City that the following shall be true and correct, as of the date hereof and as of the date of closing:

1) The Lease Agreement is designed for the for the purpose of the Lessee to operate a multi-purpose commercial medical center facility on the site to include buildings, parking, loading, as desired by Lessee. Other uses may be permitted subject to the City's written approval.

2) Lessee understands that the City considerations herein are based on the assumption that the site use and the commercial activities proposed on the site will not require an excessive quantity of potable water, nor generate excessive amounts of waste water to be treated. In the event that the use and operation would involve a wet process food manufacturing operation or any other wet process industrial operation at a later date, water and waste water utility assessments may be adjusted accordingly at the site/building occupancy approval stage to address increased costs to the City.

3) Exhibit "1" provides information on the proposed site layout, building location, if any, and building design, and company information to justify the request for City consideration of this Lease.

**28. Entire Agreement.**

This Lease represents the entire agreement and there are no other agreements or understandings oral or otherwise that are binding the parties concerning the Leasehold Property.

29. Memorandum of Lease.


Each of the City and Lessee shall execute, acknowledge and deliver to the other a written Memorandum of this Lease to be recorded in the appropriate land records of the jurisdiction in which the Leasehold Property is located, in order to give public notice and protect the validity of this Lease. In the event of any discrepancy between the provisions of said recorded Memorandum of this Lease and the provisions of this Lease, the provisions of this Lease shall prevail. Lessee agrees to pay when due and payable any and all charges, recording costs and taxes required in connection with the recordation of this Lease or such Memorandum of Lease.

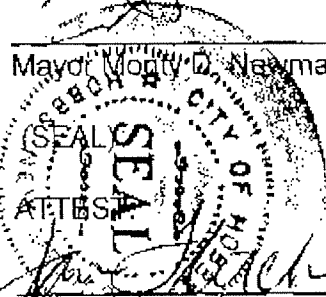

[The Remainder of this Page is Intentionally Left Blank.]

IN WITNESS WHEREOF, City and Lessee have executed this Lease as of the date first written above.

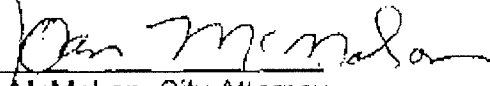
CITY OF HOBBS

LESSEE - LEA REGIONAL HOSPITAL, LLC  
A Delaware limited liability company.

  
\_\_\_\_\_  
Mayor Monty D. Newman

  
ATTEST:  
  
\_\_\_\_\_  
Jan Fletcher, City Clerk

Approved As To Form:

  
\_\_\_\_\_  
Joan McMahon, City Attorney

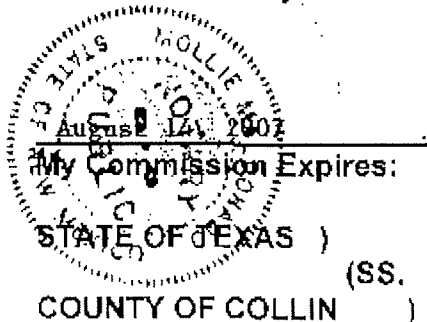
  
\_\_\_\_\_  
By: Tom Frazier  
ITS: Senior Vice President

STATE OF NEW MEXICO )  
 )SS.  
COUNTY OF LEA )

The foregoing instrument was acknowledged before me on this 4TH day of December, 2006 by Monty D. Newman, as Mayor, acting on behalf of the City of Hobbs, a New Mexico Municipal Corporation, to me personally known, who being by me duly sworn did say that he is the Mayor and signing officer of the City of Hobbs and that said instrument was signed in behalf of said Municipal Corporation, and Monty D. Newman acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the respective Municipal Corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

*[Handwritten Signature]*  
Notary Public

  
My Commission Expires: August 14, 2007  
STATE OF TEXAS )  
 ) (SS.  
COUNTY OF COLLIN )

The foregoing instrument was acknowledged before me on this 12th day of DECEMBER, 2006 by its Senior Vice President, acting on behalf of the Lea Regional Hospital, LLC, a Delaware limited liability company, to me personally known, who being by me duly sworn did say that he/she is the Senior Vice President and signing officer of Lea Regional Hospital, LLC, a Delaware limited liability company, and that said instrument was signed in behalf of said limited liability company, and acknowledged that said instrument, and acknowledged that he/she executed the same as his/her free act and deed and on behalf of the respective limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

*[Handwritten Signature]*  
Notary Public

My Commission Expires: \_\_\_\_\_

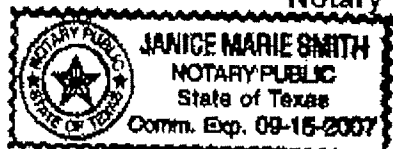


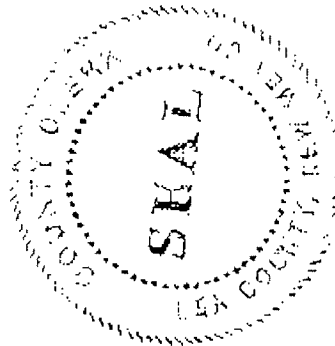
EXHIBIT "1"

Plat of Survey as Filed 2/21/2007  
under County Clerk's  
Reception # 35152, Lea  
Lea County Records, Lea County, New Mexico  
and made a part hereof

35156

STATE OF NEW MEXICO  
COUNTY OF LEA  
FILED

FEB 21 2007  
at 157 o'clock P  
and recorded in Book 1498  
Page 28  
Melinda Hughes, Lea County Clerk  
By [Signature] Deputy



Return to: City of Hobbs  
City Clerk  
300 N. Turner  
Hobbs, NM 88240

**PERMANENT GRANT OF PUBLIC UTILITY EASEMENT**  
**Hospital Incubator Building Lease Parcel**

**THIS PERMANENT GRANT OF EASEMENT**, entered into on this 14th day of February, 2007 is reserved and excepted unto itself and forever dedicated to the public by THE CITY OF HOBBS, (the "City"), a New Mexico Municipal Corporation.

For valuable consideration, the City reserves and excepts unto itself and forever dedicates to the public an unrestricted permanent grant of public utility easement to allow for access, and long term maintenance of the City's utilities, including but not limited to existing water mains and existing waste water (sewer) mains, owned by the City and located within the following described three (3) twenty foot (20') wide easements for water mains and two (2) thirty five foot (35') wide easements for waste water (sewer) mains being more particularly described as follows:

**DESCRIPTION WATER LINE 1**

A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE SOUTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N35°29'36"W 3474.95 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N39°42'04"W 383.14 FEET; THEN S49°28'49"W 88.38 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID 6.83 ACRES TRACT WHICH LIES N37°13'39"W 3858.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.  
 TOTAL LENGTH EQUALS 471.48 FEET OR 28.88 RODS

**DESCRIPTION WATER LINE 2**

A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHWESTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°14'52"W 4141.76 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S40°10'13"E 159.10 FEET; THEN S61°37'09"W 61.59 FEET; THEN S40°10'13"E 120.98 FEET TO A POINT ON AN EXISTING WATER LINE SITUATED IN SAID 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°52'11"W 3860.34 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 341.64 FEET OR 20.71 RODS

**DESCRIPTION WATER LINE 3**

A STRIP OF LAND 25.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 12.5 FEET RIGHT AND 12.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON AN EXISTING WATER LINE SITUATED IN A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N36°10'09"E 4080.46 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N49°45'32"E 300.82 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°58'03"W 4092.81 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 300.82 FEET OR 18.22 RODS

DESCRIPTION SEWER LINE 1

A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N29°05'42"W 3581.84 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN N62°51'08"W 23.52 FEET; THEN S28°43'10"W 5.71 FEET; THEN N67°00'33"W 210.41 FEET TO A POINT IN SAID 6.83 ACRE TRACT WHICH LIES N31°20'03"W 3767.22 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 239.64 FEET OR 14.52 RODS

DESCRIPTION SEWER LINE 2

A STRIP OF LAND 35.0 FEET WIDE SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM, LEA COUNTY, NEW MEXICO AND BEING 17.5 FEET RIGHT AND 17.5 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF A 6.83 ACRE TRACT OF LAND IN SAID SECTION WHICH LIES N28°59'16"W 3547.88 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION; THEN S49°47'08"W 330.64 FEET; THEN S75°04'21"W 93.20 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID 6.83 ACRE TRACT WHICH LIES N35°44'01"W 3530.59 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION.

TOTAL LENGTH EQUALS 423.84 FEET OR 25.89 RODS

As more particularly described on that certain plat dated 2/14/2007 under Reception No. 35153, Lea County Records, Lea County, New Mexico, and made a part of this easement (collectively, the "Easement Property").

This Permanent Grant of Easement entitles the City all things necessary for long term maintenance of said City of Hobbs water mains and waste water (sewer) mains, including but not limited to installation and long term maintenance of a sewer main, including grading, trenching, backfilling, excavating dirt, paving, storage and operation of equipment and all other actions required for the construction and maintenance of the public utilities. No additional permanent structures shall be built in the easement area after the above date.

In exchange for the grant of easement, the City agrees to use and maintain the Easement Property in a good and workmanlike manner. The City agrees to carry out final clean-up and make any necessary repairs within the Easement Property and the adjacent property caused in connection with any construction, maintenance, repair or replacement performed by or on behalf of the City within the Easement Property.

The City, its successors and/or assigns shall have the permanent grant of utility easement for their use as long as it is being used and maintained by the City, its successors or assigns. However, if the easement property described above is not used and maintained by the City, its successors or assigns, then the easement shall terminate and the owners of the Easement Property shall be entitled to file a Certificate of Abandonment with the County Clerk or following the written request of any ground tenant under a ground lease encumbering the Easement Property.



IN WITNESS WHEREOF, the CITY sets their hand and seal on the date first written above.

CITY OF HOBBS, NEW MEXICO

By [Signature]  
MONTY D. NEWMAN, MAYOR

STATE OF NEW MEXICO )  
                                  ) ss.  
COUNTY OF LEA )

The foregoing instrument was acknowledged before me on this 14<sup>th</sup> day of February, 2007, by Monty D. Newman, as Mayor, of the City of Hobbs, to me personally known, who being by me duly sworn did say that he is the duly elected Mayor and signing officer of the City of Hobbs, and that said instrument was signed on behalf of said City, and Monty D. Newman acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the City.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.



[Signature]  
Notary Public

STATE OF NEW MEXICO  
COUNTY OF LEA  
FILED

FEB 21 2007  
at 1:57 o'clock P  
and recorded in Book 1498  
Page 122  
Mellode [Signature] Le County Clerk  
By [Signature] Deputy



35154

[Handwritten notes]  
Return to City of Hobbs  
Planning  
306 N. Turner  
Hobbs, NM 88240

**PARTIAL RELINQUISHMENT, DISCLAIMER AND TERMINATION  
OF LEASEHOLD INTERESTS**

THIS PARTIAL RELINQUISHMENT DISCLAIMER AND TERMINATION OF LEASEHOLD INTERESTS (this "Partial Leasehold Termination") is made and executed on February 20, 2007, by the ECONOMIC DEVELOPMENT CORPORATION OF LEA COUNTY, a New Mexico corporation (the "Lessee"), whose address is 2702 N. Grimes Street, Hobbs, New Mexico, 88240, and the CITY OF HOBBS, NEW MEXICO, a New Mexico municipal corporation (the "City"), whose address is 300 N. Turner Street, Hobbs, New Mexico 88240.

That the Lessee has made and executed the following Ground Leases with the City (collectively, the "Ground Leases"):

**Lease #1:**

Description of Ground Lease: That certain Lease dated August 23, 1973, by and between the City, as ground lessor, and Industrial Development Corporation of Lea County, a New Mexico corporation ("IDC"), predecessor to the Lessee, as ground lessee.

Ground Landlord: The City.

Current Term Expiration Date: August 31, 2023 subject to the ground lessee's right to two (2) additional renewal terms of twenty-five (25) years and twenty-three (23) years respectively in accordance with the terms of the Lease.

**Lease #2:**

Description of Ground Lease: That certain Lease Agreement dated May 2, 1983, by and between the City, as ground lessor, and IDC, predecessor to the Lessee, as ground lessee.

Ground Landlord: The City.

Current Term Expiration Date: May 1, 2082.

The particular descriptions of the property and property rights of the Lessee sought by the City for public purpose and released and disclaimed herein by the Lessee as to Lessee's leasehold or any other interest are described by accurate surveyed metes and bounds description as follows:

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST, N.M.P.M., CITY OF HOBBS, LEA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD FROM WHICH A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHEAST CORNER OF SAID SECTION 7 BEARS N49°49'41"E 80.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE TEXAS/NEW MEXICO RAILROAD AND S40°10'19"E ALONG THE SAID RAILROAD RIGHT OF WAY LINE 2539.19 FEET AND S00°40'41"E ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 1207.74 FEET;

THEN S49°49'41"W 414.94 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST SOUTHERLY CORNER OF THIS TRACT;

THEN N40°10'19"W 351.06 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR AN INTERIOR CORNER OF THIS TRACT;

THEN S49°49'41"W 75.00 FEET TO A 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR A CORNER OF THIS TRACT;

THEN N40°10'19"W 309.80 FEET TO 1/2" REBAR WITH CAP MARKED "JWSC PS12641" SET FOR THE MOST WESTERLY CORNER OF THIS TRACT;

THEN N49°49'41"E 489.94 FEET TO A 1/2" REBAR FOUND FOR THE MOST NORTHERLY CORNER OF THIS TRACT AND A POINT ON THE WEST RIGHT OF WAY LINE OF INDUSTRIAL ROAD;

THEN S40°10'19"E ALONG SAID WEST LINE OF INDUSTRIAL ROAD 660.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 297,451.34 SQUARE FEET AND 6.83 ACRES MORE OR LESS.

The above described property together with any and all improvements located thereon including without limitation the building commonly known as the "Levi Building" or the "Incubator Building" (collectively, the "Released Property")

Further, in connection with the proposed sale of the improvements located on the Released Property, the LESSEE AND THE CITY EXPRESSLY DECLARE AND AGREE AS FOLLOWS:

1. Partial Termination of the Ground Leases. The Lessee and the City hereby agree that with respect to the Released Property the Ground Leases and any other ground lease, contract or any other agreements between the Lessee and the City are hereby terminated and are null and void and of no further force and effect from and after the date hereof and neither party thereto has any further obligations or liabilities thereunder. This final release and disclaimer of interest constitutes a termination of the leasehold interest with respect to the Released Property created by the Ground Leases or any other ground lease, contract or other agreement between the City and the Lessee in connection with the Released Property and all associated rights therein.

2. Release. The Lessee does hereby remise, release, and forever discharge the City of and from any and all, and all manner of actions, causes of action, rights, suits, covenants, contracts, agreements, judgments, claims, right to compensation, and demands whatsoever in law or equity arising from and by reason of the City acquiring, appropriating and taking for its public use, control, possession, and ownership the Released Property and any property right, leasehold interests, easements, and licenses related thereto for the purpose of economic development and for the purpose of accomplishing the sale of the Incubator Building to Lea Regional Hospital, LLC, a Delaware limited liability company.

3. Representations and Warranties.

(a) The Lessee represents and warrants that it has the power and right to fully release all claims being released under this Partial Leasehold Termination by the Lessee and that no other entities or persons have any right to bring or assert any such released claims and the Lessee has not assigned or transferred any of such rights or claims to any other person or entity.

(b) The City represents and warrants that it has the power and right to fully release all claims being released under this Partial Leasehold Termination by the City and that no other entities or persons have any right to bring or assert any such released claims and the City has not assigned or transferred any of such rights or claims to any other person or entity.

4. Ratification. The Lessee and the City hereby acknowledge and agree that except for the termination of the Ground Leases with respect to the Released Property as set forth above, the Ground Leases remain in full force and effect and enforceable in accordance with their respective terms.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Dated this 20th day of February, 2007.

THE LESSEE:

ECONOMIC DEVELOPMENT  
COROPRATION OF LEA COUNTY, a New  
Mexico corporation

By: Debra P. Hicks  
Name: Debra P. Hicks  
Title: Chair

THE CITY

THE CITY OF HOBBS, NEW MEXICO  
a New Mexico Municipal Corporation

By: Monty D. Newman  
Name: Monty D. Newman  
Title: Mayor

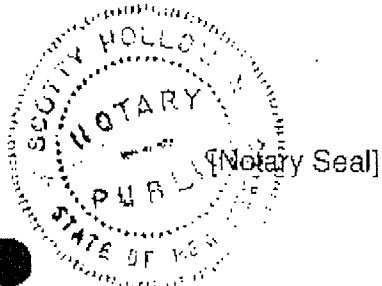
STATE OF NEW MEXICO §  
§  
§ ss.  
COUNTY OF LEA §  
§

I, Scotty Holloman, a notary public in and for said county in said state, hereby certify that Debra P. Hicks, whose name as the Chair of Economic Development Corporation of Lea County, a New Mexico corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 15<sup>th</sup> day of February, 2007.

Scotty Holloman  
Notary Public

My commission expires: 1-31-2008



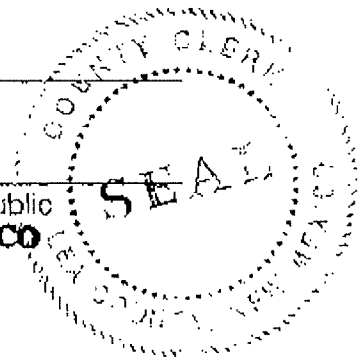
STATE OF NEW MEXICO §  
§  
§  
COUNTY OF LEA §  
§

The foregoing instrument was acknowledged before me on the 21<sup>st</sup> day of February, 2007, by Monty D. Newman as Mayor of The City of Hobbs, New Mexico, a New Mexico Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said limited liability company.

Witness my hand and official seal.

Kristie Parish  
Notary Public

Kristie Parish  
Printed Name of Notary Public  
**STATE OF NEW MEXICO**  
**COUNTY OF LEA**  
**FILED**



My Commission Expires: 4-16-09



FEB 21 2007  
at 1:57 o'clock P  
and recorded in Book 1498  
Page 123  
By [Signature] County Clerk  
By [Signature] Deputy

35155

AFFIDAVIT OF PUBLICATION

State of New Mexico,  
County of Lea.

I, KATHI BEARDEN

Publisher

of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, do solemnly swear that the clipping attached hereto was published once a week in the regular and entire issue of said paper, and not a supplement thereof for a period

of 2 weeks.

Beginning with the issue dated November 10 2006 and ending with the issue dated

November 11 2006

*Kathi Bearden*

Publisher

Sworn and subscribed to before

me this 13th day of

November 2006

*[Signature]*  
Notary Public.

My Commission expires February 07, 2009 (Seal)



OFFICIAL SEAL  
DORA MONTZ  
NOTARY PUBLIC  
STATE OF NEW MEXICO  
My Commission Expires \_\_\_\_\_

This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1937, and payment of fees for said publication has been made.

LEGAL NOTICE  
November 11, 2006

NOTICE IS HEREBY GIVEN that on the 4th day of December, 2006, at its regular meeting at 8:00 p.m., in the City Commission Chambers at City Hall, 300 North Turner, Hobbs, New Mexico, the governing body of the City of Hobbs proposes to adopt an ordinance which reads as follows:

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a building and site improvements located at 5825 N. Lovington Highway, formerly known as the Incubator Building and listed on the City of Hobbs Assal List as the "Incubator Site," and hereinafter referred to as the "Building;" and

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a ±8.83 acre tract of land situated in the Hobbs Industrial Air Park (HIAP), and hereinafter referred to as the "Leasehold Property;" and

WHEREAS, the HIAP Industrial and commercial areas have been designated by the City of Hobbs Industrial Air Park Master Plan for commercial and industrial development; and

WHEREAS, an appraisal of value has been completed and the land value was determined to be \$147,000, the value of the building was determined to be \$399,000, and the combined value was determined to be \$546,000; and

WHEREAS, this issue was reviewed by the HIAP Board at the August 16, and September 26, 2006 meetings; and

WHEREAS, unless a referendum election is held, this Ordinance authorizing the sale of the Building and the ground lease of the Leasehold Property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

A. The Building Purchase Agreement:

1. Terms of Building Purchase Agreement: The City proposes to sell the Building for the negotiated purchase price of \$546,000.

The sale of the City-owned real property improvement must be approved by City Ordinance, pursuant to Section 3-64-1, NMSA 1978, as amended.

The Building Purchase Agreement containing the terms of the purchase is a part of this Ordinance, is attached hereto and is incorporated herein by reference.

2. Appraised Value of Municipally-owned Improvement Asset: The appraised value of the Building was determined to be \$399,000.

3. Schedule of Payments: The purchase price of \$546,000 is to be made at closing.

4. Purchaser of Building: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs, NM 88240.

5. Purpose of Municipal Sale: Regional Medical Facility and Economic Development - Site acquisition for expansion to Lea Regional Medical Center.

B. The Ground Lease.

1. Terms of Ground Lease: The City proposes to lease the Leasehold Property for a 75 year period with the negotiated annual rent set at \$1,000 per year for the first five years of the Lease.

The lease of the City-owned real property must be approved by City Ordinance pursuant to Section 3-64-1 NMSA 1978, as amended.

The Ground Lease containing the terms of the lease and Protective Covenants for the real property is part of this Ordinance, is attached hereto and is incorporated here in by reference.

2. Appraised Value of Municipally-owned Real Property: The appraised value of the real property was determined to be \$147,000 for the 8.83 acre tract.

3. Schedule of Payments: The Annual Rent is to be paid in the amount of \$1,000 per year with the payment to be made on the Commencement Date or the anniversary thereof.

4. Option to Purchase: The Lessee is granted the Option to Purchase the Leasehold Property at any time during the Term of the Lease with the purchase price to be set at market value at the time of the intended purchase.

5. Leases of Property: Lea Regional Hospital, LLC, 5419 N. Lovington Highway, Hobbs,



# CITY OF HOBBS

## COMMISSION STAFF SUMMARY FORM

MEETING DATE: December 4, 2006

**SUBJECT: AN ORDINANCE APPROVING A BUILDING PURCHASE AGREEMENT TO SELL THE INCUBATOR BUILDING AND APPROVING A LEASE FOR A 6.83 ACRE REAL PROPERTY OF MUNICIPALLY OWNED LAND LOCATED IN SECTION 7, T18S, R38E, NMPM IN LEA COUNTY IN THE HOBBS INDUSTRIAL AIR PARK TO THE LEA REGIONAL HOSPITAL, LLC.**

DEPT. OF ORIGIN: Planning Division  
DATE SUBMITTED: November 27, 2006  
SUBMITTED BY: Joe Dearing, City Planner

**Summary: Final Reading of the Ordinance to authorize publication of the Ordinance to approve the Purchase Agreement to Sell the Incubator Building & Site Improvements and To Lease the 6.83 acre tract of land to the Lea Regional Hospital LLC.**

The City of Hobbs is proposing to sell the Incubator Building and Site Improvements and to lease the 6.8 acre tract of real property in the Hobbs Industrial Air Park (HIAP) to the Lea Regional Hospital LLC. The Incubator Building with associated site improvements is being sold by the City to the Lea Regional Hospital for the negotiated purchase price of \$546,000. The building and 6.8 acre parcel is located north of the existing hospital site on the east boundary of the Hobbs Industrial Air Park, and within the EDC Lease 235 acre area. The incubator site has considerable frontage on Industrial Street and visibility from Lovington Highway. A map of the Site is attached.

An appraisal of value for the site was obtained from local appraiser Mr. David Bradley. The appraised value of the land (6.83 acres) was determined to be \$147,000. Since the land value is greater than \$25,000, the lease must be approved by an Ordinance. The appraisal valued the building at \$399,000; and the entire site including the real property (land) at \$546,000. A grant application has been made and the application has stated that the proceeds of the sale would be used as local share match to create a new incubator building complex. A Lease of the 6.8 acre tract from the City to the Hospital is recommended in order for the Hospital to acquire title insurance in closing the purchase of the building.

The annual rent on the lease is proposed at \$1,000 for the first five years of the Lease. The rent is then proposed to increase based on the change in the CPI during the first five years. Thereafter, a similar adjustment would be made following each subsequent 5 year period. The purpose of the sale is Economic Development & expansion of the Regional Medical Facility.

The Lease proposes that the Lessee is granted the Option to Purchase the Leasehold Property at any time during the term of the Lease. The purchase price would be based on the market value of the land at the time of the exercise of the option to purchase.

The proposal was discussed by the HIAP Board at the August 16, 2006 and September 25, 2006 meeting. A staff memo summarizing the position of the HIAP Board is attached for information of the City Commission. Minutes of the September 25 meeting were previously transmitted to the Commission.

If the City Commission approves the publication of this Ordinance, then the final passage could occur on December 4. Three additional related issues will be brought before the City Commission at the November 6 meeting: 1) Protective Covenants on the Leasehold Property to coordinate with the Lease; 2) to approve the Assignment of the existing leases (1973 & 1983) from the EDC to the Hospital; and 3) to approve a Release of Property and Use Covenant required by the US Economic Development Administration, since EDA grant funds were used to refurbish the building in 1986.

Options for the City Commission to consider or 1) Approve the Ordinance and sell the building and lease the property to the Lea Regional Hospital, LLC; 2) Vote no and deny the proposal; or 3) Request staff to negotiate a modified proposal with the Hospital.

**Fiscal Impact:**

Reviewed By: 

Finance Department

The City is leasing the parcel at \$1,000 per year annual rent. The rent payments will be deposited into Fund #20 Airport Special Revenue Fund. The payment to the City for the land will foster the development of the incubator site.

**Attachments:** Ordinance; Building Purchase Agreement; Lease with attachments of the Survey Plat; Site Map; Appraisal Information; Memo on HIAP Board concerns & issues; and Letter from the EDC.



<b>Legal Review:</b>	
Approved As To Form: <u>Don McCombs</u> City Attorney	
<b>Recommendation:</b>	
Staff recommends approval of the Ordinance to approve final passage of the Building Purchase Agreement and the Lease with the Lea Regional Hospital LLC.	
<b>Approved For Submittal By:</b>	<b>CITY CLERK'S USE ONLY COMMISSION ACTION TAKEN</b>
<u>[Signature]</u> Department Director	Resolution No. _____ Continued To: _____
<u>[Signature]</u> City Manager	Ordinance No. _____ Referred To: _____
	Approved _____ Denied _____
	Other _____ File No. _____